

DENTAL BOARD[650]

[Prior to 5/18/88, Dental Examiners, Board of[320]]

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TITLE I
GENERAL PROVISIONSCHAPTER 1
ADMINISTRATION

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—1.1(153) Definitions. As used in these rules:

“Accredited school” means a dental, dental hygiene, or dental assisting education program accredited by the American Dental Association Commission on Dental Accreditation.

“Board” means the board of dental examiners.

“Chapter” means Iowa Code chapter 153.

“Coronal polish” means an adjunctive procedure that must also include removal of any calculus, if present, by a dentist or dental hygienist. Coronal polishing of teeth using only a rotary instrument and a rubber cup or brush for such purpose, when performed at the direction of and under the supervision of a licensed dentist, is deemed not to be the giving of prophylactic treatment.

“Dental hygiene committee,” as defined in Iowa Code section 153.33A, means the dental hygiene committee of the board of dental examiners.

“Department” means the department of public health.

“Direct supervision” means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room.

“General supervision of a dental assistant” means that a dentist has delegated the services to be provided by a dental assistant, which are limited to all extraoral duties and intraoral suctioning. The dentist need not be present in the facility while these services are being provided.

“General supervision of a dental hygienist” means that a dentist has examined the patient and has prescribed authorized services to be provided by a dental hygienist. The dentist need not be present in the facility while these services are being provided. If a dentist will not be present, the following requirements shall be met:

1. Patients or their legal guardians must be informed prior to the appointment that no dentist will be present and therefore no examination will be conducted at that appointment.
2. The hygienist must consent to the arrangement.
3. Basic emergency procedures must be established and in place and the hygienist must be capable of implementing these procedures.
4. The treatment to be provided must be prior prescribed by a licensed dentist and must be entered in writing in the patient record.

“Inactive status” means the status of a practitioner licensed or registered pursuant to Iowa Code chapter 153 who is not currently engaged in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa and who has obtained a certificate of exemption from compliance with the requirements for continuing dental education.

“Lapsed license,” “permit,” or *“registration”* means a license, permit, or registration that a person has failed to renew as required or the license, permit, or registration of a person who failed to meet stated obligations for renewal within a stated time. A person whose license, permit, or registration has lapsed continues to hold the privilege of licensure or registration in Iowa, but may not practice dentistry, dental hygiene, or dental assisting until the license, permit, or registration is reinstated.

“License” means a certificate issued to a person to practice as a dentist or dental hygienist under the laws of this state.

“Licensee” means a person who has been issued a certificate to practice as a dentist or dental hygienist under the laws of this state.

“Peer review” as defined in Iowa Code section 272C.1(7) means evaluation of professional services rendered by a licensee or registrant.

“Peer review committee” as defined in Iowa Code section 272C.1(8) means one or more persons acting in a peer review capacity pursuant to these rules.

“Personal supervision” means the dentist is physically present in the treatment room to oversee and direct the services of the dental assistant.

“Practice of dentistry” as defined in Iowa Code section 153.13 includes the rendering of professional services in this state as an employee or independent contractor or the rendering of any dental decisions, including diagnosing, treatment planning, determining the appropriateness of proposed dental care, or engaging in acts that constitute the practice of dentistry.

The following classes of persons shall also be deemed to be engaged in the practice of dentistry:

1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry.

2. Persons who perform examinations, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background, experience, and expertise are common to the practice of dentistry.

“Registrant” means a person who has been issued a certificate to practice as a dental assistant under the laws of this state.

“Registration” means a certificate issued to a person to practice as a dental assistant under the laws of this state.

This rule is intended to implement Iowa Code sections 147.1(2), 147.13, 147.30, 147.76, 147.80, 153.13 and 153.15, and chapter 272C.

650—1.2(17A,147,153,272C) Purpose of the board. The purpose of the board is to protect public health, safety, and welfare by administering, interpreting, and enforcing the provisions of law that relate to the practice of dentistry, dental hygiene, and dental assisting. In pursuit of this mission, the board performs these primary functions:

1.2(1) Administers examinations for the testing of dentists, dental hygienists, and dental assistants;

1.2(2) Issues licenses, registrations, certificates, and permits to qualified practitioners;

1.2(3) Sets standards for license, registration, and permit renewal and continuing education;

1.2(4) Enforces Iowa laws regulating the practice of dentistry, dental hygiene, and dental assisting;

1.2(5) Investigates complaints concerning violations of the dental practice Act and rules;

1.2(6) Conducts disciplinary hearings and monitors the compliance of licensees or registrants with board orders; and

1.2(7) Adopts rules and establishes standards for practitioners pursuant to its authority under the Iowa Code and administrative rules.

650—1.3(17A,147,153) Organization of the board.

1.3(1) The board shall be composed of five members licensed to practice dentistry, two members licensed to practice dental hygiene and two members not licensed to practice dentistry or dental hygiene and who shall represent the general public. All members are appointed by the governor, subject to confirmation by the senate.

1.3(2) Five members of the board shall constitute a quorum for the purpose of conducting business.

1.3(3) The dental hygiene committee of the board shall be composed of the two dental hygiene members of the board and one dentist member of the board. The dentist member will be elected annually to serve on the committee by a majority vote of the board. The dentist member of the committee must have supervised and worked in collaboration with a dental hygienist for a period of at least three years immediately preceding election to the committee.

1.3(4) Two members of the dental hygiene committee shall constitute a quorum for the purpose of conducting business.

1.3(5) Committees of the board may be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons. Committees of the board may include the executive committee, licensure committee, grievance committee, continuing education advisory committee, and dental assistant committee.

650—1.4(153) Organization of the dental hygiene committee.

1.4(1) All matters regarding the practice, discipline, education, examination, and licensure of dental hygienists will be initially directed to the dental hygiene committee. The committee shall have the authority to adopt recommendations regarding the practice, discipline, education, examination, and licensure of dental hygienists and shall carry out duties as assigned by the board. Recommendations by the committee shall include a statement and documentation supporting its recommendation to the board. The board shall review all committee recommendations. The recommendations shall be ratified by the board unless the board makes a specific written finding that the recommendation exceeds the jurisdiction or expands the scope of the committee beyond the authority granted in subrule 1.4(2), creates an undue financial impact on the board, or is not supported by the record. The board may not amend a committee recommendation without the concurrence of the majority of the members of the dental hygiene committee.

1.4(2) This rule shall not be construed as impacting or changing the scope of practice of the profession of dental hygiene or authorizing the independent practice of dental hygiene.

1.4(3) The committee shall not have regulatory or disciplinary authority with regard to dentists, dental assistants, dental lab technicians, or other auxiliary dental personnel.

This rule is intended to implement Iowa Code section 153.33A.

650—1.5(17A,153) Information. Members of the public may obtain information from or submit requests relating to the practice of dentistry, dental hygiene, or dental assisting, continuing education, or any other matter to the Executive Director, Iowa Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687.

650—1.6(17A,147,153) Meetings.

1.6(1) The board shall hold an annual meeting each year in Des Moines to elect officers and conduct other business. Officers of the board shall consist of a chairperson, vice chairperson, and secretary. Officers shall assume their duties immediately following their election at the annual meeting.

1.6(2) The board may hold additional meetings as the chairperson, vice chairperson, or majority of the board deems necessary. Written notices stating the time and place of the meetings shall be provided consistent with the open meetings law.

1.6(3) The dental hygiene committee shall hold an annual meeting each year in Des Moines, Iowa, to elect officers and conduct other business. Officers of the committee shall consist of a chairperson, vice chairperson, and secretary. Officers shall assume their duties immediately following their election at the annual meeting.

1.6(4) The dental hygiene committee may hold additional meetings as the chairperson, vice chairperson, or majority of the committee deems necessary.

1.6(5) Dates and location of board meetings may be obtained from the board's office. Except as otherwise provided by statute, all board meetings shall be open and the public shall be permitted to attend.

These rules are intended to implement Iowa Code sections 17A.3, 147.14(4), 147.22, and 153.33A(1).

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CHAPTERS 2 to 4
Reserved

CHAPTER 6
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The Iowa board of dental examiners hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

650—6.1(153,147,22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “agency issuing these rules”, insert “Iowa Board of Dental Examiners”.

650—6.3(153,147,22) Requests for access to records.

6.3(1) Location of record. In lieu of the words “Insert agency name and address”, insert “Iowa Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687”.

6.3(2) Office hours. In lieu of the words “Insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4”, insert “8 a.m. to 4:30 p.m. daily excluding Saturdays, Sundays, and legal holidays”.

6.3(7) Fees.

c. Supervisory fee. In lieu of the words “(specify time period)”, insert “one-half hour”.

650—6.6(153,147,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “designate office”, insert “the executive director”.

650—6.9(153,147,22) Disclosures without the consent of the subject.

6.9(1) Open records are routinely disclosed without the consent of the subject.

6.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 6.10(153,147,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that, the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

h. Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code chapter 252J or 598.

i. Notwithstanding any statutory confidentiality provision, the board may share information with the college student aid commission for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code sections 261.121 to 261.127.

650—6.10(153,147,22) Routine use.

6.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

6.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, investigators, members or agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, investigator, or member, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency and among board members; to other state agencies, boards and departments; federal agencies; to agencies in other states; national associations; or to local units of government as appropriate to administer the agency’s statutory authority.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

g. Disclosure to the attorney general’s office for use in performing its official functions.

h. Disclosure to the public and news media of pleadings, motions, orders, final decisions, and informal settlements filed in licensee disciplinary proceedings.

i. Transmittal to the district court of the record in a disciplinary hearing, pursuant to Iowa Code section 17A.19(6), regardless of whether the hearing was opened or closed.

650—6.11(153,147,22) Consensual disclosure of confidential records.

6.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 6.7(153,147,22).

6.11(2) *Complaints to public officials.* A letter from the subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

6.11(3) *Obtaining information from a third party.* The agency is required to obtain information to verify and investigate applications for licensure or permit, complaints concerning licensees, and alleged violations of law and statute. Requests to third parties for this information may involve the release of records requiring special procedures.

a. Where necessary, the agency shall obtain from the subject individual an authorization for the release of specially protected information on a form that meets the requirements of the law.

b. To obtain alcohol and drug abuse patient information, the agency shall obtain special authorization from the subject individual on a “Consent to Release Alcohol and Drug Abuse Patient Information” form or other appropriate form.

c. The agency is authorized by law to subpoena books, papers, records, and any other real evidence, whether or not privileged or confidential under law, to help it determine whether it should institute an administrative hearing.

650—6.12(153,147,22) Release to subject.

6.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 6.6(153,147,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provisions of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the provisions of Iowa Code section 22.7(5).

d. All information in licensee complaint and investigation files maintained by the board for purposes of licensee discipline are required to be withheld from the subject prior to the filing of formal charges and the notice of hearing in a licensee disciplinary proceeding.

e. As otherwise authorized by state or federal law or rule.

6.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

650—6.13(153,147,22) Availability of records.

6.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

6.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)

b. Prior to initiation of a contested case, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of the board or its employees or agents which relates to licensee or registrant discipline. (Iowa Code section 272C.6(4))

c. Criminal history, prior misconduct or investigative information relating to an applicant for licensure or registration. (Iowa Code section 147.21(1))

d. Information relating to results of an examination for licensure, registration, or certification other than final score except for information about results of an examination which is given to the person who took the examination. (Iowa Code section 147.21(3))

e. Information relating to the contents of an examination for licensure, registration, or certification. (Iowa Code section 147.21(2))

f. Information contained in professional substance abuse reports or other investigative reports relating to the abuse of controlled substances. (Iowa Code section 124.504)

g. Minutes of closed meetings of the board. (Iowa Code section 21.5(4))

h. Records of closed session board disciplinary hearings. (Iowa Code sections 272C.6(1) and 21.5(4))

i. Information or records received from a restricted source and any other information or records made confidential by law.

j. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."

k. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in conducting audits, in making inspections, in negotiating settlements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)

l. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10, and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26 (b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

m. Any other records made confidential by law.

n. Records which are exempt from disclosure under Iowa Code section 22.7.

o. Information in nonlicensee investigation files maintained by the board which are otherwise exempt from disclosure under Iowa Code section 22.7 or other provisions of law.

6.13(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 6.4(153,147,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspections as provided in subrule 6.4(3).

650—6.14(153,147,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 6.1(153,147,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

6.14(1) *Information on nonlicensee investigation files maintained by the board.* This information is collected by the board pursuant to the authority granted in Iowa Code sections 147.2, 147.83, 147.84, 147.85, and 147.93. This information is stored on paper only. This information is a public record except to the extent that certain information may be exempt from disclosure under Iowa Code section 22.7 or other provisions of law.

6.14(2) *Information in complaint, compliance, and investigative files maintained by the board for the purposes of discipline.* This information is collected pursuant to Iowa Code sections 153.33, 272C.3, and 272C.9. This information is stored electronically and on paper. This information is required to be kept confidential pursuant to Iowa Code section 272C.6(4). However, information may be released to the licensee or registrant once a disciplinary proceeding is commenced by the filing of a formal statement of charges and the notice of hearing.

6.14(3) *Records of board disciplinary hearings.* These records contain information about licensees and persons under the board's jurisdiction who are subject of a board disciplinary proceeding or other action. This information is collected by the board pursuant to the authority granted in Iowa Code sections 153.23 and 153.33, and chapter 272C. This information is stored electronically and on paper. These records may also contain the following:

a. Formal charges and notices of hearings and final written decisions imposing sanctions, including informal stipulations and settlements. This information is collected by the board pursuant to the authority granted in Iowa Code sections 153.23 and 153.33 and chapter 272C. This information is stored electronically and on paper. This information is a public record pursuant to Iowa Code sections 272C.5 and 272C.6.

b. Court reporter notes, tape recordings, exhibits, pleadings, motions, orders, and other documents that constitute the record in a disciplinary hearing. If a hearing is closed pursuant to Iowa Code section 272C.6(1), the record is confidential under Iowa Code section 21.5(4). This information is collected by the board pursuant to the authority granted in Iowa Code sections 153.23 and 153.33, and chapter 272C. This information is stored on recorder tape or paper only.

6.14(4) *Continuing education records.* These records contain educational information about persons registered or licensed by the board. This information is collected pursuant to the authority granted in Iowa Code section 272C.2. This information is stored on paper only.

6.14(5) *Sponsors of continuing education.* These records contain information concerning continuing education sponsors, annual reports, recertification forms, courses, and attendance sheets. This information is collected pursuant to Iowa Code section 272C.2. This information is stored on paper only.

6.14(6) *Application records.* These records contain information about applicants which may include name, address, telephone number, social security number, place of birth, date of birth, education, certifications, examinations with scores, character references, fingerprints, diplomas and any additional information the board may request. This information is collected by the board pursuant to Iowa Code sections 147.2, 153.21, 153.22, and 153.37 to 153.39. This information is stored electronically and on paper. The personal information contained in these records may be confidential in whole or in part pursuant to Iowa Code sections 147.21(1) to 147.21(3), 22.7(1), and 22.7(19) or other provisions of law.

6.14(7) *Examination records.* These records contain examination information and scores for any of the following examinations: Joint Commission on National Dental Examinations; Joint Commission on National Dental Hygiene Examinations; Central Regional Dental Testing Service, Inc. examinations; Iowa jurisprudence examinations; state radiography examinations; state dental examinations; state dental hygiene examinations; and state dental assistant registration examinations. This information is collected by the board pursuant to Iowa Code sections 147.21 and 147.34. This information is stored electronically and on paper. The information contained in these records is confidential in part pursuant to Iowa Code sections 147.21(2), 147.21(3), 22.7(1), and 22.7(19).

6.14(8) *Licensure, registration, permit or certification records.* These records contain information about currently, previously, or reinstated licensed dentists, dental hygienists, and dental assistants. This information includes name of license, registration, permit or certificate holder, license, registration, permit or certificate number, date issued, current renewal status and current address. This information is collected by the board pursuant to the authority granted in Iowa Code sections 136C.2, 147.2, 147.10, 153.22, 153.23, and 153.30. This information is stored electronically and on paper.

6.14(9) *Personnel files.* The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

6.14(10) *Compliance reports.* These records contain information about dentists and their dental facilities which are inspected to determine compliance with board regulations including the use of parenteral sedation, general anesthesia, or nitrous oxide by dentists in dental facilities. This information is collected by the board pursuant to the authority granted in Iowa Code section 153.20. The information contained in these reports is confidential in whole or in part pursuant to Iowa Code sections 22.7(5), 272C.3, and 272C.6(4). This information is stored electronically and on paper.

6.14(11) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

650—6.15(153,147,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 6.1(153,147,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 6.13(153,147,22). This information is stored electronically and on paper. The records listed may contain information about individuals.

6.15(1) Board agendas, minutes, news releases, statistical reports and compilations, newsletters, publications, correspondence, opinions, rulings, and other information intended for the public except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. These records may contain information about individuals, including board members and staff. This information is collected pursuant to Iowa Code section 21.3. This information is stored electronically and on paper.

6.15(2) Records of board rule-making proceedings. These records may contain information about individuals making written or oral comments on rules proposed by the board. This information is collected pursuant to Iowa Code section 17A.4. This information is stored electronically and on paper.

6.15(3) Board decisions, findings of fact, final orders, declaratory rulings, declaratory orders, and other statements of law or policy issued by the board in the performance of its function. This information is stored electronically or on paper.

6.15(4) Administrative records. This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

6.15(5) Office manuals. Information in office manuals such as the procedures manual may be confidential under Iowa Code section 17A.2(7) “f” or other applicable provision of law.

650—6.16(153,147,22) Data processing system. The board does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

650—6.17(153,147,22) Purpose and scope. This chapter implements Iowa Code section 22.11 by establishing board policies and procedures for the maintenance of records.

This chapter does not:

1. Require the board to index or retrieve records which contain information about individuals by that person’s name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the board which are governed by rules of another board or agency.
4. Apply to grantees, including local governments or subdivisions, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the board in reasonable anticipation of court litigation or formal administrative proceedings. The availability of the records to the general public or to any subject individual or party to litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the board.

These rules are intended to implement Iowa Code section 22.11 and chapters 147, 153, and 272C and Iowa Code chapter 252J.

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CHAPTER 7
RULES

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—7.1(17A,147,153) Petition for rule making.

7.1(1) An interested person may petition the board for the adoption, amendment or repeal of administrative rules.

7.1(2) The petition shall be in writing, signed by or on behalf of the petitioner, and contain the following information:

a. A general statement of the rule the petitioner is requesting the board to adopt, amend, or repeal. Where amendment or repeal of an existing rule is sought, the rule number should be included but is not required. The petitioner is not required to enclose a draft of the proposed rule or proposed amendment being requested.

b. A statement of sufficient detail setting forth reasons for adoption, amendment, or repeal.

c. A statement showing how the petitioner would be affected by the requested action.

d. Name and address of petitioner.

7.1(3) The petition is filed when it is received by the board.

7.1(4) Upon receipt of the petition, the board shall take the petition under advisement. The board may request additional information from the petitioner or the board office.

7.1(5) If the petition raises an issue regarding the practice of dental hygiene, the petition shall be referred to the dental hygiene committee for review. The dental hygiene committee shall review the petition and timely submit its recommendations to the board. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

7.1(6) The board shall deny the petition or initiate rule-making procedures within 60 days after filing of the petition. In the case of a denial, the board shall state in writing its reasons for the denial. The petitioner shall be notified by mail of the board action taken.

This rule is intended to implement Iowa Code sections 17A.3(1) and 17A.7.

650—7.2(17A,147,153) Oral presentations for rule making.

7.2(1) Oral presentations may be made to the board when requested in writing not later than 20 days after notice of intended action is published in the Iowa Administrative Bulletin, by five interested persons, a governmental subdivision, the administrative rules review committee, an agency, or an association having not less than 25 members or upon discretion of the board.

7.2(2) The board shall give the public not less than 20 days' notice of the time and place where oral presentations may be made.

7.2(3) Persons wishing to speak shall notify the board prior to start of the oral presentations.

7.2(4) Oral presentations may be limited to ten minutes at the discretion of the board.

This rule is intended to implement Iowa Code sections 17A.3(1) and 17A.4(1).

650—7.3(153) Declaratory rulings. Rescinded IAB 5/19/99, effective 6/23/99. See 650—Chapter 9.

650—7.4(17A,147,153) Waivers.

7.4(1) Definition. For purposes of this rule, "a waiver or variance" means action by the board that suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term "waiver" shall include both a "waiver" and a "variance."

7.4(2) Scope of rule. This rule outlines generally applicable standards and a uniform process for the granting of an individual waiver from a rule adopted by the board in situations where no other more specifically applicable law provides for a waiver. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from that rule.

7.4(3) Applicability of rule. The board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional

provisions, or other provisions of law. The board may not waive requirements created or duties imposed by statute.

7.4(4) *Criteria for waiver.* In response to a petition completed pursuant to subrule 7.4(6), the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

- a. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
- b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
- c. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and
- d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

7.4(5) *Filing of petition.* A petition for a waiver must be submitted in writing to the board as follows:

- a. Application for license, registration, certification, or permit. If the petition relates to an application for license, registration, certification, or permit, the petition shall be made in accordance with the filing requirements for the application in question.
- b. Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.
- c. Other. If the petition does not relate to an application or a pending contested case, the petition may be submitted to the board's executive director.
- d. A petition is deemed filed when it is received at the board's office. A petition should be sent to the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. The petition must be typewritten or legibly handwritten in ink and substantially conform to the form specified in 650—7.5(17A,147,153).

7.4(6) *Content of petition.* A petition for waiver shall include the following information where applicable and known to the requester:

- a. The name, address, and telephone number of the person for whom a waiver is being requested and a reference to any related contested case. Also, the name, address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.
- b. A description and citation of the specific rule from which a waiver is requested.
- c. The specific waiver requested, including the precise scope and duration.
- d. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in subrule 7.4(4). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.
- e. A history of any prior contacts between the board and the petitioner relating to the regulated activity, license, registration, certification, or permit affected by the proposed waiver, including a description of each affected license, registration, certification, or permit held by the requester, any formal charges filed, any notices of violation, contested case hearings, or investigations relating to the regulated activity, license, registration, certification or permit.
- f. Any information known to the requester regarding the board's action in similar circumstances.
- g. The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the grant of a waiver.
- h. The name, address, and telephone number of any person who would be adversely affected by the grant of the petition.
- i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
- j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

7.4(7) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's executive director, a committee of the board, or a quorum of the board.

7.4(8) Notice. The board shall acknowledge a petition upon receipt. Except where otherwise provided by law, every petition shall be served by the petitioner upon each of the parties of record of the proceeding, and on all other persons identified in the petition for waiver as affected by the petition, simultaneously with the filing. The petitioner shall serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided. In addition, the board may give notice to other persons.

7.4(9) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case. A person who objects to a denial of a waiver in proceedings other than a contested case hearing may make an informal appearance before the board to request reconsideration.

7.4(10) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

a. Board discretion. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the board based on the unique, individual circumstances set out in the petition.

b. Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

c. Narrowly tailored. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

d. Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

e. Conditions. The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

f. Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

g. Time for ruling. The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

h. When deemed denied. Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

i. Service of order. Within seven days of its issuance, any order issued under this rule shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

7.4(11) Public availability. All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

7.4(12) Summary reports. Semiannually, the board shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

7.4(13) Cancellation of a waiver. A waiver issued by the board pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

- a. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
- b. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been insufficient; or
- c. The subject of the waiver order has failed to comply with all conditions contained in the order.

7.4(14) Violations. A violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

7.4(15) Defense. After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein only for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

7.4(16) Judicial review. Judicial review of a board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

This rule is intended to implement Iowa Code chapters 17A, 147, and 153.

650—7.5(17A,147,153) Sample petition for waiver. A petition for waiver filed in accordance with 650—7.4(17A,147,153) must meet the requirements specified therein and must substantially conform to the following form:

BEFORE THE BOARD OF DENTAL EXAMINERS

Petition by (Name of Petitioner) for the
waiver/variance of (insert rule citation)
relating to (insert the subject matter).



PETITION FOR
WAIVER/VARIANCE

1. Specify petitioner's (person asking for a waiver or variance) name, address, and telephone number. Also, the name, address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. Describe and cite the specific rule from which a waiver is requested.

3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend.

4. Explain the relevant facts and reasons that the petitioner believes justify a waiver. Include in your answer all of the following:

a. Why applying the rule would result in undue hardship to the petitioner;

b. Why waiving the rule would not prejudice the substantial legal rights of any person;

c. Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and

d. How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

5. Provide a history of any prior contacts between the board and petitioner relating to the regulated activity, license, registration, certification or permit that would be affected by the waiver. Include a

description of each affected license, registration, certification, or permit held by the petitioner, any formal charges filed, any notices of violation, any contested case hearings held, or any investigations related to the regulated activity, license, registration, certification, or permit.

6. Provide information known to the petitioner regarding the board's action in similar circumstances.

7. Provide the name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the grant of the petition.

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the grant of the waiver.

9. Provide the name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

I hereby attest to the accuracy and truthfulness of the above information.

Petitioner's signature

Date

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CHAPTER 8
SALE OF GOODS AND SERVICES

650—8.1(68B) Selling of goods or services by members of the board. The board members shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department of public health except as authorized by this chapter.

650—8.2(68B) Conditions of consent for members.

8.2(1) *Consent shall be given by a majority of the members of the board.* Consent shall not be given to an official to sell goods or services to an individual, association, or corporation regulated by the department of public health unless all of the following conditions are met:

a. The official requesting consent does not have authority to determine whether consent should be given.

b. The official's duties or functions are not related to the department's regulatory authority over the individual, association or corporation to whom the goods and services are being sold, or the selling of the good or service does not affect the official's duties or functions.

c. The selling of the good or service does not include acting as an advocate on behalf of the individual, association, or corporation to the department of public health.

d. The selling of the good or service does not result in the official selling a good or service to the department on behalf of the individual, association, or corporation.

8.2(2) *Authorized sales.*

a. A member of the board may sell goods or services to any individual, association, or corporation regulated by any division within the department of public health, other than the board on which that official serves. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board.

b. A member of the board may sell goods or services to any individual, association, or corporation regulated by the board if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board. In the event an individual, association, or corporation regulated by the board, to whom a board member sells goods or services is directly involved in any matter pending before the board, including a disciplinary matter, that board member shall not participate in any deliberation or decision concerning that matter. In the event a complaint is filed with the board concerning the services provided by the board member to a member of the public, that board member is otherwise prohibited by law from participating in any discussion or decision by the licensing board in that case.

c. Individual application and approval are not required for the sales authorized by this rule unless there are unique facts surrounding a particular sale which would cause the sale to affect the seller's duties or functions, would give the buyer an advantage in dealing with the board, or would otherwise present a conflict of interest.

8.2(3) *Application for consent.* Prior to selling a good or service to an individual, association, or corporation subject to the regulatory authority of the department of public health, an official must obtain prior written consent unless the sale is specifically allowed in subrule 8.2(2). The request for consent must be in writing signed by the official requesting consent. The application must provide a clear statement of all relevant facts concerning the sale. The application should identify the parties to the sale and the amount of compensation. The application should also explain why the sale should be allowed.

8.2(4) *Limitation of consent.* Consent shall be in writing and shall be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the board. A consent provided under this chapter does not constitute authorization for any activity which is a conflict of interest under common law or which would violate any other statute or rule.

It is the responsibility of the official requesting consent to ensure compliance with all other applicable laws and rules.

These rules are intended to implement Iowa Code section 68B.4.

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CHAPTER 9
DECLARATORY ORDERS

650—9.1(17A) Petition for declaratory order. Any person may file a petition with the board (which for purposes of this chapter means the board of dental examiners or as to matters exclusively involving dental hygiene or dental hygienists means the dental hygiene committee of the board of dental examiners) for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. A petition is deemed filed when it is received by that office. The board of dental examiners shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BOARD OF DENTAL EXAMINERS	
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	} PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by 650—9.7(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

650—9.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the board of dental examiners shall give notice of the petition to all persons not served by the petitioner pursuant to 650—9.6(17A) to whom notice is required by any provision of law. The board of dental examiners may also give notice to any other persons.

650—9.3(17A) Intervention.

9.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 15 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

9.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the board of dental examiners.

9.3(3) A petition for intervention shall be filed with the board at 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. Such a petition is deemed filed when it is received by that office. The board

of dental examiners will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BOARD OF DENTAL EXAMINERS	
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	
PETITION FOR INTERVENTION	

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

650—9.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The board of dental examiners may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

650—9.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Executive Director, Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

650—9.6(17A) Service and filing of petitions and other papers.

9.6(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

9.6(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the board of dental examiners.

9.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by 650—Chapter 51.

650—9.7(17A) Consideration. Upon request by petitioner, the board of dental examiners must schedule a brief and informal meeting between the original petitioner, all intervenors, and the board of dental examiners, a member of the board of dental examiners, or a member of the staff of the board of dental examiners, to discuss the questions raised. The board of dental examiners may solicit comments from

any person on the questions raised. Also, comments on the questions raised may be submitted to the board of dental examiners by any person.

650—9.8(17A) Action on petition.

9.8(1) Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the board of dental examiners or designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13(5).

9.8(2) The date of issuance of an order or of a refusal to issue an order is as defined in 650—Chapter 51.

650—9.9(17A) Refusal to issue order.

9.9(1) The board of dental examiners shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board of dental examiners to issue an order.
3. The board of dental examiners does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the board of dental examiners to determine whether a statute is unconstitutional on its face.

9.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

9.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

650—9.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

650—9.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

650—9.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the board of dental examiners, the petitioner, and any intervenors (who consent to be bound) and is applicable only in circumstances

where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the board of dental examiners. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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TITLE III
LICENSING

CHAPTER 10

GENERAL REQUIREMENTS

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—10.1(153) Licensed or registered personnel. Persons engaged in the practice of dentistry in Iowa must be licensed by the board as a dentist, and persons performing services under Iowa Code section 153.15 must be licensed by the board as a dental hygienist. Persons engaged in the practice of dental assisting must be registered by the board pursuant to 650—Chapter 20.

This rule is intended to implement Iowa Code sections 147.2 and 153.17.

650—10.2(147,153) Display of license, registration, permit, and renewal. The license to practice dentistry or dental hygiene or the registration as a dental assistant and the current renewal must be prominently displayed by the licensee or registrant at each permanent practice location. A dentist who holds a permit to administer deep sedation/general anesthesia or conscious sedation, or a dental hygienist who holds a permit to administer local anesthesia, shall also prominently display the permit and the current renewal at each permanent practice location.

10.2(1) Additional certificates shall be obtained from the board whenever a licensee or registrant practices at more than one address.

10.2(2) Duplicate licenses, certificates of registration, or permits shall be issued by the board upon satisfactory proof of loss or destruction of the original license, certificate of registration, or permit.

This rule is intended to implement Iowa Code sections 147.7, 147.10 and 147.80(17).

650—10.3(153) Authorized practice of a dental hygienist.

10.3(1) “Practice of dental hygiene” as defined in Iowa Code section 153.15 means the performance of the following educational, therapeutic, preventive and diagnostic dental hygiene procedures which are delegated by and under the supervision of a dentist licensed pursuant to Iowa Code chapter 153.

a. Educational. Assessing the need for, planning, implementing, and evaluating oral health education programs for individual patients and community groups; conducting workshops and in-service training sessions on dental health for nurses, school personnel, institutional staff, community groups and other agencies providing consultation and technical assistance for promotional, preventive and educational services.

b. Therapeutic. Identifying and evaluating factors which indicate the need for and performing (1) oral prophylaxis, which includes supragingival and subgingival debridement of plaque, and detection and removal of calculus with instruments or any other devices; (2) periodontal scaling and root planing; (3) removing and polishing hardened excess restorative material; (4) administering local anesthesia with the proper permit; (5) administering nitrous oxide inhalation analgesia in accordance with 650—subrules 29.6(4) and 29.6(5); (6) applying or administering medicaments prescribed by a dentist, including chemotherapeutic agents and medicaments or therapies for the treatment of periodontal disease and caries.

c. Preventive. Applying pit and fissure sealants and other medications or methods for caries and periodontal disease control; organizing and administering fluoride rinse or sealant programs.

d. Diagnostic. Reviewing medical and dental health histories; performing oral inspection; indexing dental and periodontal disease; making occlusal registrations for mounting study casts; testing pulp vitality; analyzing dietary surveys.

e. The following services may only be delegated by a dentist to a dental hygienist: administration of local anesthesia, placement of sealants, and the removal of any plaque, stain, calculus, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish.

10.3(2) All authorized services provided by a dental hygienist shall be performed under the general, direct, or public health supervision of a dentist currently licensed in the state of Iowa in accordance with 650—1.1(153) and 650—10.5(153).

10.3(3) Under the general or public health supervision of a dentist, a dental hygienist may provide educational services, assessment, screening, or data collection for the preparation of preliminary written records for evaluation by a licensed dentist. A dentist is not required to examine a patient prior to the provision of these dental hygiene services.

10.3(4) The administration of local anesthesia or nitrous oxide inhalation analgesia shall only be provided under the direct supervision of a dentist.

10.3(5) All other authorized services provided by a dental hygienist to a new patient shall be provided under the direct or public health supervision of a dentist. An examination by the dentist must take place during an initial visit by a new patient, except when hygiene services are provided under public health supervision.

10.3(6) Subsequent examination and monitoring of the patient, including definitive diagnosis and treatment planning, is the responsibility of the dentist and shall be carried out in a reasonable period of time in accordance with the professional judgment of the dentist based upon the individual needs of the patient.

10.3(7) General supervision shall not preclude the use of direct supervision when in the professional judgment of the dentist such supervision is necessary to meet the individual needs of the patient.

This rule is intended to implement Iowa Code section 153.15.

650—10.4(153) Unauthorized practice of a dental hygienist. A dental hygienist who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor supervised by a licensed dentist or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, director, or supervisor of a practice as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry or dental hygiene or who renders dental service(s) directly or indirectly on or for members of the public other than as an employee or independent contractor supervised by a licensed dentist shall be deemed to be practicing illegally.

10.4(1) The unauthorized practice of dental hygiene means allowing a person not licensed in dentistry or dental hygiene to perform dental hygiene services authorized in Iowa Code section 153.15 and rule 650—10.3(153).

10.4(2) The unauthorized practice of dental hygiene also means the performance of services by a dental hygienist that exceeds the scope of practice granted in Iowa Code section 153.15.

10.4(3) A dental hygienist shall not practice independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other workplace separate or independent from the office or other workplace in which the supervision of a dentist is provided.

This rule is intended to implement Iowa Code sections 147.10, 147.57 and 153.15.

650—10.5(153) Public health supervision allowed. A dentist who meets the requirements of this rule may provide public health supervision to a dental hygienist if the dentist has an active Iowa license and the services are provided in public health settings.

10.5(1) Public health settings defined. For the purposes of this rule, public health settings are limited to schools; Head Start programs; federally qualified health centers; public health dental vans; free clinics; nonprofit community health centers; nursing facilities; and federal, state, or local public health programs.

10.5(2) Public health supervision defined. “Public health supervision” means all of the following:

a. The dentist authorizes and delegates the services provided by a dental hygienist to a patient in a public health setting, with the exception that hygiene services may be rendered without the patient’s first being examined by a licensed dentist;

b. The dentist is not required to provide future dental treatment to patients served under public health supervision;

c. The dentist and the dental hygienist have entered into a written supervision agreement that details the responsibilities of each licensee, as specified in subrule 10.5(3); and

d. The dental hygienist has an active Iowa license with a minimum of three years of clinical practice experience.

10.5(3) Licensee responsibilities. When working together in a public health supervision relationship, a dentist and dental hygienist shall enter into a written agreement that specifies the following responsibilities.

a. The dentist providing public health supervision must:

(1) Be available to provide communication and consultation with the dental hygienist;

(2) Have age- and procedure-specific standing orders for the performance of dental hygiene services. Those standing orders must include consideration for medically compromised patients and medical conditions for which a dental evaluation must occur prior to the provision of dental hygiene services;

(3) Specify a period of time, no more than 12 months, in which an examination by a dentist must occur prior to providing further hygiene services. However, this examination requirement does not apply to educational services, assessments, screenings, and fluoride if specified in the supervision agreement; and

(4) Specify the location or locations where the hygiene services will be provided under public health supervision.

b. A dental hygienist providing services under public health supervision may provide assessments; screenings; data collection; and educational, therapeutic, preventive, and diagnostic services as defined in rule 10.3(153), except for the administration of local anesthesia or nitrous oxide inhalation analgesia, and must:

(1) Maintain contact and communication with the dentist providing public health supervision;

(2) Practice according to age- and procedure-specific standing orders as directed by the supervising dentist, unless otherwise directed by the dentist for a specific patient;

(3) Provide to the patient, parent, or guardian a written plan for referral to a dentist and assessment of further dental treatment needs;

(4) Have each patient sign a consent form that notifies the patient that the services that will be received do not take the place of regular dental checkups at a dental office and are meant for people who otherwise would not have access to services; and

(5) Specify a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist, including where these records are to be located.

c. The written agreement for public health supervision must be maintained by the dentist and the dental hygienist and must be made available to the board upon request. The dentist and dental hygienist must review the agreement at least biennially.

d. A copy of the agreement shall be filed with the Oral Health Bureau, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

10.5(4) Reporting requirements. Each dental hygienist who has rendered services under public health supervision must complete a summary report at the completion of a program or, in the case of an ongoing program, at least annually. The report shall be filed with the oral health bureau of the Iowa department of public health on forms provided and include information related to the number of patients seen and services provided to enable the department to assess the impact of the program. The department will provide summary reports to the board on an annual basis.

This rule is intended to implement Iowa Code section 153.15.

650—10.6(147,153,272C) Other requirements.

10.6(1) Change of address or name. Each person licensed or registered by the board must notify the board, in writing, of a change of legal name or address within 60 days of such change. Proof of a legal name change, such as a notarized copy of a marriage certificate, must accompany the request for a name change.

10.6(2) Child and dependent adult abuse training. Licensees or registrants who regularly examine, attend, counsel or treat children or adults in Iowa must obtain mandatory training in child and dependent adult abuse identification and reporting within six months of initial employment and subsequently every five years in accordance with 650—subrule 25.2(9).

10.6(3) Reporting requirements. Each licensee and registrant shall be responsible for reporting to the board, within 30 days, any of the following:

- a. Every adverse judgment in a professional malpractice action to which the licensee or registrant was a party.
- b. Every settlement of a claim against the licensee or registrant alleging malpractice.
- c. Any license or registration revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country within 30 days of the final action by the licensing authority.

This rule is intended to implement Iowa Code sections 147.9, 232.69, 235B.16 and 272C.9.

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†See HJR 2006 of 2006 Session of the Eighty-first General Assembly regarding nullification of subrule 10.6(4).

CHAPTER 11
LICENSURE TO PRACTICE DENTISTRY OR DENTAL HYGIENE
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—11.1(147,153) Applicant responsibilities. An applicant for dental or dental hygiene licensure bears full responsibility for each of the following:

1. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information required to complete a license or permit application; and
2. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, prior professional experience, education, training, examination scores, and disciplinary history.

650—11.2(147,153) Dental licensure by examination.

11.2(1) Applications for licensure to practice dentistry in this state shall be made on the form provided by the board and must be completely answered, including required credentials and documents.

11.2(2) Applications for licensure must be filed with the board along with:

- a.* Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 11.4(153).
- b.* Certification by the dean or other authorized representative of the dental school that the applicant has been a student in good standing while attending that dental school.
- c.* If the applicant is a dentist licensed by another jurisdiction, the applicant shall furnish certification from the board of dental examiners of that jurisdiction that the applicant is a licensed dentist in good standing.
- d.* Evidence of successful completion of Part I and Part II of the examination, with resulting scores, administered by the Joint Commission on National Dental Examinations. At the discretion of the board, any dentist who has lawfully practiced dentistry in another state or territory for five years may be exempted from presenting this evidence.
- e.* Evidence of successful completion of the examination taken in the last five years, with resulting scores, administered by the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc. (WREB).
- f.* A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges.
- g.* The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.
- h.* Evidence of successful completion of the jurisprudence examination administered by the board of dental examiners.
- i.* Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.
- j.* A photograph of the applicant suitable for positive identification.
- k.* A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.2(3) The board may require a personal appearance or any additional information relating to the character, education and experience of the applicant.

11.2(4) Applications must be signed and notarized as to the truth of the statements contained therein. This rule is intended to implement Iowa Code sections 147.3, 147.29, and 147.34.

650—11.3(153) Dental licensure by credentials.

11.3(1) Applications for licensure by credentials to practice dentistry in this state shall be made on the form provided by the board and must be completely answered, including required credentials and documents.

11.3(2) Applications must be filed with the board along with:

- a.* Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 11.4(153).
- b.* Evidence of successful completion of Parts I and II of the examination of the Joint Commission on National Dental Examinations, with resulting scores, or evidence of having passed a written examination during the last ten years that is comparable to the examination given by the Joint Commission on National Dental Examinations.
- c.* A statement of any dental examinations taken by the applicant, with resulting scores.
- d.* Evidence of a current, valid license to practice dentistry in another state, territory or district of the United States issued upon clinical examination.
- e.* Certification by a state board of dentistry, or equivalent authority, from a state in which applicant has been licensed for at least three years immediately preceding the date of application and evidence of having engaged in the practice of dentistry in that state for three years immediately preceding the date of application or evidence of three years of practice satisfactory to the board.
- f.* Certification by the state board of dentistry, or equivalent authority, from each state in which applicant has engaged in the practice of dentistry, that the applicant has not been the subject of final or pending disciplinary action.
- g.* A statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, complaints, judgments, settlements, or criminal charges.
- h.* The nonrefundable application fee for licensure by credentials, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal bureau of Investigation (FBI), as specified in 650—Chapter 15.
- i.* Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.
- j.* Evidence of successful completion of the jurisprudence examination administered by the board of dental examiners.
- k.* A photograph of the applicant suitable for positive identification.
- l.* A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.3(3) The board may require a personal appearance or may require any additional information relating to the character, education, and experience of the applicant.

11.3(4) The board may also require such examinations as may be necessary to evaluate the applicant for licensure by credentials.

11.3(5) Applications must be signed and notarized attesting to the truth of the statements contained therein.

This rule is intended to implement Iowa Code chapters 147 and 153.

650—11.4(153) Graduates of foreign dental schools. In addition to meeting the other requirements for licensure specified in rule 11.2(147,153) or 11.3(153), an applicant for dental licensure who did not graduate with a DDS or DMD from an accredited dental college approved by the board must provide satisfactory evidence of meeting the following requirements.

11.4(1) The applicant must complete a full-time, undergraduate supplemental dental education program of at least two academic years at an accredited dental college. The undergraduate supplemental dental education program must provide didactic and clinical education to the level of a DDS or DMD graduate of the dental college.

11.4(2) The applicant must receive a dental diploma, degree or certificate from the accredited dental college upon successful completion of the program.

11.4(3) The applicant must present to the board the following documents:

- a.* An official transcript issued by the accredited dental college that verifies completion of all coursework requirements of the undergraduate supplemental dental education program;
- b.* A dental diploma, degree or certificate issued by the accredited dental college or a certified copy thereof;

c. A letter addressed to the board from the dean of the accredited dental college verifying that the applicant has successfully completed the requirements set forth in 11.4(1);

d. A final, official transcript verifying graduation from the foreign dental school at which the applicant originally obtained a dental degree. If the transcript is written in a language other than English, an original, official translation shall also be submitted; and

e. Verification from the appropriate governmental authority that the applicant was licensed or otherwise authorized by law to practice dentistry in the country in which the applicant received foreign dental school training and that no adverse action was taken against the license.

11.4(4) The applicant must demonstrate to the satisfaction of the board an ability to read, write, speak, understand, and be understood in the English language. The applicant may demonstrate English proficiency by submitting to the board proof of a passing score on one of the following examinations:

a. Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service. A passing score on TOEFL is a minimum overall score of 550 on the paper-based TOEFL or a minimum overall score of 213 on the computer-administered TOEFL.

b. Test of Spoken English (TSE) administered by the Educational Testing Service. A passing score on TSE is a minimum of 50.

This rule is intended to implement Iowa Code chapter 153.

650—11.5(147,153) Dental hygiene licensure by examination.

11.5(1) Applications for licensure to practice dental hygiene in this state shall be made on the form provided by the dental hygiene committee and must be completely answered, including required credentials and documents.

11.5(2) Applications for licensure must be filed with the dental hygiene committee along with:

a. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. Certification by the dean or other authorized representative of the school of dental hygiene that the applicant has been a student in good standing while attending that dental hygiene school.

c. If the applicant is licensed as a dental hygienist by another jurisdiction, the applicant shall furnish certification from the appropriate examining board of that jurisdiction that the applicant is a licensed dental hygienist in good standing.

d. Evidence of successful completion of the examination, with resulting scores, administered by the Joint Commission on National Dental Examinations.

e. Evidence of successful completion of the examination taken in the last five years, with resulting scores, administered by the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.

f. The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

g. Evidence of successful completion of the jurisprudence examination administered by the dental hygiene committee.

h. Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

i. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges.

j. A photograph of the applicant suitable for positive identification.

k. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.5(3) The dental hygiene committee may require a personal appearance or any additional information relating to the character, education and experience of the applicant.

11.5(4) Applications must be signed and notarized as to the truth of the statements contained therein.

11.5(5) Following review by the dental hygiene committee, the committee shall make recommendation to the board regarding the issuance or denial of any license to practice dental hygiene. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code chapters 147 and 153.

650—11.6(153) Dental hygiene licensure by credentials. To be issued a license to practice dental hygiene in Iowa on the basis of credentials, an applicant shall meet the following requirements.

11.6(1) Applications for licensure by credentials to practice dental hygiene in this state shall be made on the form provided by the dental hygiene committee and must be completely answered, including required credentials and documents.

11.6(2) Applications must be filed with the dental hygiene committee along with:

a. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. Evidence of successful completion of the examination of the Joint Commission on National Dental Examinations with resulting scores, or evidence of having passed a written examination that is comparable to the examination given by the Joint Commission on National Dental Examinations.

c. A statement of any dental hygiene examinations taken by the applicant, with resulting scores.

d. Evidence of a current, valid license to practice dental hygiene in another state, territory or district of the United States issued upon clinical examination.

e. Certification by the state board of dentistry, or equivalent authority, from a state in which applicant has been licensed for at least three years immediately preceding the date of application and evidence of having engaged in the practice of dental hygiene in that state for three years immediately preceding the date of application or evidence of practice satisfactory to the dental hygiene committee.

f. Certification by the state board of dentistry, or equivalent authority, in each state in which applicant has engaged in the practice of dental hygiene, that the applicant has not been the subject of final or pending disciplinary action.

g. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements or criminal charges.

h. The nonrefundable application fee for licensure by credentials, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

i. Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

j. Successful completion of the jurisprudence examination administered by the dental hygiene committee.

k. A photograph of the applicant suitable for positive identification.

l. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.6(3) Applicant shall appear for a personal interview conducted by the dental hygiene committee or the board by request only.

11.6(4) The dental hygiene committee may also require such examinations as may be necessary to evaluate the applicant for licensure by credentials.

11.6(5) Applications must be signed and notarized attesting to the truth of the statements contained therein.

11.6(6) Following review by the dental hygiene committee, the committee shall make a recommendation to the board regarding issuance or denial of a dental hygiene license. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code section 147.80 and chapter 153.

650—11.7(147,153) Dental hygiene application for local anesthesia permit. A licensed dental hygienist may administer local anesthesia provided the following requirements are met:

1. The dental hygienist holds a current local anesthesia permit issued by the board of dental examiners.

2. The local anesthesia is prescribed by a licensed dentist.

3. The local anesthesia is administered under the direct supervision of a licensed dentist.

11.7(1) Application for permit. A dental hygienist shall make application for a permit to administer local anesthesia on the form approved by the dental hygiene committee and provide the following:

a. The fee for a permit to administer local anesthesia as specified in 650—Chapter 15; and

b. Evidence that formal training in the administration of local anesthesia has been completed within 12 months of the date of application. The formal training shall be approved by the dental hygiene committee and conducted by a school accredited by the American Dental Association Commission on Dental Education; or

c. Evidence of completion of formal training in the administration of local anesthesia approved by the dental hygiene committee and documented evidence of ongoing practice in the administration of local anesthesia in another state or jurisdiction that authorizes a dental hygienist to administer local anesthesia.

11.7(2) Permit renewal. Prior to June 30, 2006, the permit shall expire on June 30 of every even-numbered year. For the renewal period beginning July 1, 2006, and ending June 30, 2007, the permit shall expire on June 30, 2007. A permit due to expire on June 30, 2007, shall be automatically extended until August 30, 2007, and expire August 31, 2007. After August 30, 2007, the permit shall expire on August 31 of every odd-numbered year. To renew the permit, the dental hygienist must:

a. At the time of renewal, document evidence of holding an active Iowa dental hygiene license.

b. Submit the application fee for renewal of the permit as specified in 650—Chapter 15.

11.7(3) Failure to meet the requirements for renewal shall cause the permit to lapse and become invalid.

11.7(4) A permit that has been lapsed for two years or less may be reinstated upon the permit holder's application for reinstatement and payment of the reinstatement fee as specified in 650—Chapter 15. A permit that has been lapsed for more than two years may be reinstated upon application for reinstatement, documentation of meeting the requirements of 11.7(1) "b" or "c," and payment of the reinstatement fee as specified in 650—Chapter 15.

This rule is intended to implement Iowa Code sections 147.10 and 147.80 and chapter 153.

650—11.8(147,153) Review of applications. Upon receipt of a completed application, the executive director as authorized by the board has discretion to:

1. Authorize the issuance of the license, permit, or registration.

2. Refer the license, permit, or registration application to the license committee for review and consideration when the executive director determines that matters including, but not limited to, prior criminal history, chemical dependence, competency, physical or psychological illness, malpractice claims or settlements, or professional disciplinary history are relevant in determining the applicants' qualifications for license, permit, or registration.

11.8(1) Following review and consideration of a license, permit, or registration application referred by the executive director, the license committee may at its discretion:

a. Recommend to the board issuance of the license, permit, or registration.

b. Recommend to the board denial of the license, permit, or registration.

c. Recommend to the board issuance of the license, permit, or registration under certain terms and conditions or with certain restrictions.

d. Refer the license, permit, or registration application to the board for review and consideration without recommendation.

11.8(2) Following review and consideration of a license, permit, or registration application referred by the license committee the board shall:

a. Authorize the issuance of the license, permit, or registration,

b. Deny the issuance of the license, permit, or registration, or

c. Authorize the issuance of the license, permit, or registration under certain terms and conditions or with certain restrictions.

11.8(3) The license committee or board may require an applicant to appear for an interview before the committee or the full board as part of the application process.

11.8(4) The license committee or board may defer final action on an application if there is an investigation or disciplinary action pending against an applicant, who may otherwise meet the requirements for license, permit, or registration, until such time as the committee or board is satisfied that licensure or registration of the applicant poses no risk to the health and safety of Iowans.

11.8(5) The dental hygiene committee shall be responsible for reviewing any applications submitted by a dental hygienist that require review in accordance with this rule. Following review by the dental hygiene committee, the committee shall make a recommendation to the board regarding issuance of the license or permit. The board's review of the dental hygiene committee's recommendation is subject to 650—Chapter 1.

11.8(6) An application for a license, permit, or reinstatement of a license will be considered complete prior to receipt of the criminal history background check on the applicant by the FBI for purposes of review and consideration by the executive director, the license committee, or the board. However, an applicant is required to submit an additional completed fingerprint packet and fee within 30 days of a request by the board if an earlier fingerprint submission has been determined to be unacceptable by the DCI or FBI.

650—11.9(147,153) Grounds for denial of application. The board may deny an application for license or permit for any of the following reasons:

1. Failure to meet the requirements for license or permit as specified in these rules.
2. Failure to provide accurate and truthful information, or the omission of material information.
3. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended.

This rule is intended to implement Iowa Code section 147.4.

650—11.10(147) Licensure denied—appeal procedure. An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of the appeal and request for hearing upon the executive director not more than 30 days following the date of the mailing of the notification of licensure denial to the applicant or not more than 30 days following the date upon which the applicant was served notice if notification was made in the manner of service of an original notice. The hearing and subsequent procedures shall be considered a contested case hearing and shall be governed by the procedures outlined in 650—Chapter 51.

This rule is intended to implement Iowa Code sections 147.3, 147.4 and 147.29.

650—11.11(252J,261) Receipt of certificate of noncompliance. The board shall consider the receipt of a certificate of noncompliance from the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127 and 650—Chapter 34 of these rules or receipt of a certificate of noncompliance of a support order from the child support recovery unit pursuant to Iowa Code chapter 252J and 650—Chapter 33 of these rules. License denial shall follow the procedures in the statutes and board rules as set forth in this rule.

This rule is intended to implement Iowa Code chapter 252J and sections 261.121 to 261.127.

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CHAPTER 12
DENTAL AND DENTAL HYGIENE EXAMINATIONS
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—12.1(147,153) Clinical examination procedure for dentistry.

12.1(1) To meet the requirements for dental licensure by examination, applicants shall complete the examination administered by the American Board of Dental Examiners, Inc. (ADEX), the Central Regional Dental Testing Service, Inc. (CRDTS), or the Western Regional Examining Board, Inc. (WREB).

12.1(2) Examinees shall meet the requirements for testing and follow the procedures established by the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.

12.1(3) Prior to April 1, 1995, the examinee must attain an average grade of not less than 70 percent on each clinical portion of the examination and 70 percent on the written portion of the examination. Between April 1, 1995, and December 31, 2000, the examinee must attain an average grade of not less than 75 percent on each clinical portion of the examination and 75 percent on the written portion of the examination. Effective January 1, 2001, the examinee must attain a comprehensive score that meets the standard for passing established by ADEX, CRDTS, or WREB.

12.1(4) Each examinee shall be required to perform such clinical operations as may be required by the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc. (WREB) for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dentistry.

650—12.2(147,153) System of retaking dental examinations.

12.2(1) *Method of counting failures.*

a. Integrated format. For the purposes of counting examination failures, the board shall utilize the policies adopted by CRDTS. A dental examinee who has not passed all five parts of the integrated examination format by June 30 following graduation from dental school shall have one examination failure recorded. The dental examinee must then retake all five parts of the examination in the traditional format.

b. Traditional format. For the purposes of counting examination failures, the board shall utilize the policies adopted by CRDTS. A dental examinee who fails one or more parts of the examination shall have one examination failure recorded. A dental examinee shall be required to retake only those parts of the examination that the examinee failed. A dental examinee who has not passed all five parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.

c. A dental examinee who has two examination failures in the traditional format will be required to complete remedial education requirements set forth in subrule 12.2(2).

12.2(2) *Remedial education required prior to third examination.*

a. Prior to the third examination attempt, a dental examinee must submit proof of additional formal education or clinical experience approved in advance by the board.

b. A dental examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental examinee who has not passed all five parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.

12.2(3) *Remedial education required prior to fourth examination.*

a. Prior to the fourth examination attempt, a dental examinee must submit proof of satisfactory completion of the equivalent of an additional senior year of an approved curriculum in dentistry at a university or school with an approved curriculum.

b. At the fourth examination, the dental examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental examinee who has not passed all five parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.

12.2(4) Subsequent failures. For the purposes of additional study prior to retakes, the fifth examination will be considered the same as the third.

12.2(5) Failures of other examinations. If a dental examinee applies for the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc., examination after having failed any other state or regional examination, the failures shall be considered ADEX, CRDTS, or WREB failures for the purposes of retakes.

650—12.3(147,153) Clinical examination procedure for dental hygiene.

12.3(1) To meet the requirements for dental hygiene licensure by examination, applicants shall complete the examination administered by the American Board of Dental Examiners, Inc. (ADEX), the Central Regional Dental Testing Service, Inc. (CRDTS), or the Western Regional Examining Board, Inc. (WREB).

12.3(2) Examinees shall meet the requirements for testing and follow the procedures established by the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.

12.3(3) Prior to December 31, 2003, the examinee must attain an average grade of 70 percent on the examination. Effective January 1, 2004, the examinee must attain a comprehensive score that meets the standard for passing established by ADEX, CRDTS, or WREB.

12.3(4) Each examinee shall be required to perform such practical demonstrations as may be required by the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc., for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dental hygiene.

650—12.4(147,153) System of retaking dental hygiene examinations.

12.4(1) Method of counting failures.

a. For the purposes of counting examination failures, the board shall utilize the policies adopted by CRDTS.

b. A dental hygiene examinee who fails one or both parts of the examination shall have one examination failure recorded. A dental hygiene examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental hygiene examinee who has not passed both parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.

c. A dental hygiene examinee who has two examination failures will be required to complete the remedial education requirements set forth in subrule 12.4(2).

12.4(2) Remedial education required prior to third examination.

a. Prior to the third examination attempt, a dental hygiene examinee must submit proof of a minimum of 40 hours of additional formal education or a minimum of 40 hours of clinical experience that is approved in advance by the dental hygiene committee.

b. A dental hygiene examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental hygiene examinee who has not passed both parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.

12.4(3) Remedial education required prior to fourth examination.

a. Prior to the fourth examination attempt, a dental hygiene examinee must submit proof of satisfactory completion of the equivalent of an additional semester of dental hygiene at a university or school approved by the dental hygiene committee.

b. A dental hygiene examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental hygiene examinee who has not passed both parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.

12.4(4) Subsequent failures. For purposes of additional study prior to retakes, the fifth examination will be considered the same as the third.

12.4(5) Failures of other examinations. If a dental hygiene examinee applies for the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional

Examining Board, Inc., examination after having failed any other state or regional examination, the failures shall be considered ADEX, CRDTS, or WREB failures for the purposes of retakes.

650—12.5(153) Additional requirements. Rescinded IAB 2/6/02, effective 3/13/02.

This chapter is intended to implement Iowa Code section 147.36.

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CHAPTER 13
SPECIAL LICENSES

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—13.1(153) Resident license.

13.1(1) A dentist or dental hygienist seeking permission to practice as a resident, intern or graduate student in a board-approved teaching or educational institution offering specialty oriented courses shall be required to make application to the board on official board forms and furnish to the board the following:

a. A signed written statement from the dean or designated administrative officer of the institution in which the applicant seeks to enroll.

b. A signed written statement of a dentist who holds an active Iowa license or faculty permit and who proposes to exercise supervision and direction over said applicant, specifying in general terms the time and manner thereof.

c. Satisfactory evidence of graduation from an accredited school of dentistry or other school approved by the board.

d. Such additional information as the board may deem necessary to enable it to determine the proficiency, character, education or experience of such applicant.

e. Applications must be signed and verified as to the truth of the statements contained therein, and all questions must be completely answered.

f. The appropriate fee as specified in 650—Chapter 15 of these rules.

13.1(2) If approved by the board, a resident license shall allow the licensee to serve as a resident, intern, or graduate student dentist or dental hygienist, under the supervision of a practitioner who holds an active Iowa license or faculty permit, at the University of Iowa College of Dentistry or at an institution approved by the board.

13.1(3) If a resident licensee leaves the service of such institution during the tenure of residency, internship or graduate study, the license shall be considered null and void and the authority granted by the board to the licensee shall be automatically canceled. The director of the resident training program shall notify the board within 30 days of the licensee's terminating from the program.

13.1(4) The resident license shall be valid for one year and may be renewed annually during such period of time as the dental resident is continuously enrolled in a graduate dental education program. A resident license issued or renewed on or after January 1, 2006, shall expire on the expected date of completion of the resident training program as indicated on the licensure or renewal application.

13.1(5) A resident license may be extended past the original expected completion date of the training program at the discretion of the board. A licensee who wishes to extend the expiration date of the license shall submit an extension application to the board that includes a letter explaining the need for an extension, an extension fee of \$40, and a statement from the director of the resident training program attesting to the progress of the resident in the training program, the new expected date of completion of the program, and whether any warnings have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action.

13.1(6) The director of the resident training program shall report annually on July 1 the progress of residents under the director's supervision and whether any warnings have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action. The board shall notify the program directors of the reporting requirement at least 30 days prior to the deadline.

13.1(7) A resident licensee who changes resident training programs shall apply for a new resident license and also include a statement from the director of the applicant's most recent residency program documenting the applicant's progress in the program.

13.1(8) No examination or continuing education shall be required for this license.

13.1(9) The resident licensee shall be subject to all applicable provisions of the law and the rules of the board. Any violations of these laws or rules or the failure of the licensee to perform and progress

satisfactorily or receive effective supervision as determined by the board shall be grounds for revocation of the license after proper notice and hearing.

This rule is intended to implement Iowa Code section 153.22.

650—13.2(153) Dental college and dental hygiene program faculty permits.

13.2(1) The board may issue a faculty permit entitling the holder to practice dentistry or dental hygiene as a faculty member within the University of Iowa College of Dentistry or a dental hygiene program and affiliated teaching facilities.

13.2(2) The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the board or the dental hygiene committee those bona fide members of the college's or a dental hygiene program's faculty who are not licensed to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing duties in the college of dentistry or a dental hygiene program, make on official board forms written application to the board or the dental hygiene committee for a permit and shall provide the following:

a. The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

b. Information regarding the professional qualifications and background of the applicant.

c. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

d. If the applicant is licensed by another jurisdiction, the applicant shall furnish certification from the board of dental examiners of that jurisdiction that the applicant is licensed in good standing and has not been the subject of final or pending disciplinary action.

e. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges.

f. A photograph of the applicant suitable for positive identification.

g. Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

h. Such additional information as the board may deem necessary to enable it to determine the character, education or experience of such applicant.

i. Applications must be signed and notarized as to the truth of the statements contained therein and include required credentials and documents, and all questions must be completely answered.

13.2(3) A faculty permit shall expire on August 31 of every even-numbered year and may, at the sole discretion of the board, be renewed on a biennial basis. Prior to June 30, 2006, a faculty permit expired on June 30 of every even-numbered year. A faculty permit due to expire on June 30, 2008, shall be automatically extended until August 30, 2008, and expire August 31, 2008.

13.2(4) The appropriate fee as specified in 650—Chapter 15 of these rules shall be paid for renewal of the faculty permit. A faculty permit holder who fails to renew by the expiration date of the permit shall be assessed a late fee in accordance with 650—14.4(147,153,272C).

13.2(5) The faculty permit shall be valid only so long as the holder remains a member of the faculty of the college of dentistry or member of the faculty of a dental hygiene program in Iowa and shall subject the holder to all provisions of the law regulating the practice of dentistry and dental hygiene in this state.

13.2(6) Faculty permit holders are required to obtain 30 hours of continuing education in accordance with the guidelines in 650—Chapter 25 for renewal of the faculty permit.

13.2(7) Faculty permit holders shall also be required to submit evidence of current certification in a nationally recognized course in cardiopulmonary resuscitation to renew the permit.

13.2(8) Application for issuance of a dental hygiene program faculty permit shall be made to the dental hygiene committee for consideration and recommendation to the board pursuant to 650—Chapter 1.

This rule is intended to implement Iowa Code section 153.37.

650—13.3(153) Temporary permit. The board may issue a temporary permit authorizing the permit holder to practice dentistry or dental hygiene on a short-term basis in Iowa at a specific location or locations to fulfill an urgent need, to serve an educational purpose, or to provide volunteer services. A temporary permit may be granted on a case-by-case basis.

13.3(1) General provisions.

a. The temporary permit is intended for dentists and dental hygienists with short-term assignments in Iowa that fulfill an urgent need, serve an educational purpose, or provide volunteer services, and clearly have no long-term implications for licensure. If the need changes or if the permit holder wishes to continue in short-term assignments in other Iowa locations, the permit holder is expected to seek permanent licensure. A temporary permit is not meant as a way to practice before a permanent license is granted or as a means to practice because the applicant does not fulfill the requirements for permanent licensure.

b. The board may issue a temporary permit authorizing the permit holder to practice at a specific location or locations in Iowa for a specified period up to three months.

c. Following expiration of the permit, a permit holder shall be required to obtain a new temporary permit or a permanent license in order to practice dentistry or dental hygiene in Iowa.

d. A person may be issued not more than three temporary permits to fulfill an urgent need or serve an educational purpose.

e. The board may cancel a temporary permit if the permit holder has practiced outside the scope of the permit or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code chapters 147, 153, and 272C and 650—30.4(147,153,272C). When cancellation of a permit is proposed, the board shall promptly notify the permit holder by sending a statement of charges and notice of hearing by certified mail to the last-known address of the permit holder. The provisions of 650—Chapter 51 shall govern a contested case proceeding following notice of intent to cancel the permit.

f. A temporary permit shall be displayed in the primary location of practice.

g. A temporary permit holder shall notify the board in writing of any change in name or mailing address within seven days of the change. A certified copy of a marriage license or a certified copy of court documents is required for proof of a name change.

13.3(2) Eligibility for a temporary permit to fulfill an urgent need or serve an educational purpose. An application for a temporary permit shall be filed on the form provided by the board and must be completely answered, including required credentials and documents. To be eligible for a temporary permit to fulfill an urgent need or serve an educational purpose, an applicant shall provide all of the following:

a. Satisfactory evidence of graduation with a DDS or DMD degree for applicants seeking a temporary permit to practice dentistry or satisfactory evidence of graduation from a dental hygiene school for applicants seeking a temporary permit to practice dental hygiene.

b. The nonrefundable application fee for a temporary permit to fulfill an urgent need or serve an educational purpose as specified in 650—Chapter 15.

c. Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

d. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges against the applicant.

e. Certification from the state board of dentistry, or equivalent authority, from a state in which the applicant has been licensed for at least three years immediately preceding the date of application and evidence of having engaged in the practice of dentistry in that state for three years immediately preceding the date of application or evidence of three years of practice satisfactory to the board. The applicant must also provide evidence that the applicant has not been the subject of final or pending disciplinary action.

f. Certification from the appropriate examining board from each jurisdiction in which the applicant has ever held a license. At least one license must be issued on the basis of clinical examination.

g. A request for the temporary permit from those individuals or organizations seeking the applicant's services that establishes, to the board's satisfaction, the justification for the temporary

permit, the dates the applicant's services are needed, and the location or locations where those services will be delivered.

13.3(3) Eligibility for a temporary permit to provide volunteer services.

a. A temporary permit to provide volunteer services is intended for dentists and dental hygienists who will provide volunteer services at a free or nonprofit dental clinic and who will not receive compensation for dental services provided. A temporary permit issued under this subrule shall be valid only at the location specified on the permit, which shall be a free clinic or a dental clinic for a nonprofit organization, as described under Section 501(c)(3) of the Internal Revenue Code.

b. An application for a temporary permit shall be filed on the form provided by the board and must be completely answered, including required credentials and documents. To be eligible for a temporary permit to provide volunteer services, an applicant shall provide all of the following:

(1) Satisfactory evidence of graduation with a DDS or DMD degree for applicants seeking a temporary permit to practice dentistry or satisfactory evidence of graduation from a dental hygiene school for applicants seeking a temporary permit to practice dental hygiene.

(2) The nonrefundable application fee for a temporary permit to provide volunteer services as specified in 650—Chapter 15.

(3) Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

(4) A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges against the applicant.

(5) Evidence that the applicant holds an active, permanent license to practice in at least one United States jurisdiction and that no formal disciplinary action is pending or has even been taken.

(6) Certification from the appropriate examining board from each jurisdiction in which the applicant has ever held a license. At least one license must be issued on the basis of clinical examination.

(7) A request for the temporary permit from those individuals or organizations seeking the applicant's services that establishes, to the board's satisfaction, the justification for the temporary permit, the dates the applicant's services are needed, and the location or locations where those services will be delivered.

(8) A statement from the applicant seeking the temporary permit that the applicant shall practice only in a free dental clinic or dental clinic for a nonprofit organization and that the applicant shall not receive compensation directly or indirectly for providing dental services.

13.3(4) Dental hygiene committee review. The dental hygiene committee shall make recommendations to the board regarding the issuance or denial of any temporary permit to practice dental hygiene. The board's review of the dental hygiene committee's recommendation is subject to 650—Chapter 1.

13.3(5) Denial of temporary permit. The board may deny a temporary permit in accordance with 650—11.9(147,153) or, at the sole discretion of the board, for failure to justify the need for a temporary permit. The procedure for appealing the denial of a permit is set forth in 650—11.10(147).

13.3(6) A temporary permit holder shall be subject to and follow all rules and state laws pertaining to the practice of dentistry and dental hygiene in this state.

This rule is intended to implement Iowa Code section 153.19.

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CHAPTER 14
RENEWAL

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—14.1(147,153,272C) Renewal of license to practice dentistry or dental hygiene. A license to practice dentistry or a license to practice dental hygiene must be renewed prior to the expiration date of the license. Prior to July 1, 2008, dental licenses expired on June 30 of every even-numbered year. A dental license due to expire on June 30, 2008, shall be automatically extended until August 30, 2008, and expire August 31, 2008. Beginning July 1, 2008, dental licenses expire on August 31 of every even-numbered year. Prior to July 1, 2006, dental hygiene licenses expired on June 30 of every even-numbered year. However, for the renewal period beginning July 1, 2006, a dental hygiene license expires on June 30, 2007. A dental hygiene license due to expire on June 30, 2007, shall be automatically extended until August 30, 2007, and expire August 31, 2007. Beginning July 1, 2007, dental hygiene licenses expire on August 31 of every odd-numbered year. The board will notify each licensee by mail of the expiration of the license.

14.1(1) Application for renewal must be made in writing on forms provided by the board at least 30 days before the current license expires.

14.1(2) The appropriate fee as specified in 650—Chapter 15 of these rules must accompany the application for renewal. A penalty shall be assessed by the board for late renewal.

14.1(3) Completion of continuing education in accordance with 650—Chapter 25 is required for renewal of an active license. However, licensees are exempt from the continuing education requirement for the current biennium in which the license is issued.

14.1(4) In order to renew a license, evidence of current certification in a nationally recognized course in cardiopulmonary resuscitation is required. The course must include a clinical component.

14.1(5) The dental hygiene committee may, in its discretion, review any applications for renewal of a dental hygiene license and make recommendations to the board. The board's review is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code section 147.10 and chapters 153 and 272C.

650—14.2(153) Notice of renewal. Rescinded IAB 2/6/02, effective 3/13/02.

650—14.3(147,153,272C) Grounds for nonrenewal. The board may refuse to renew a license or registration on the following grounds:

14.3(1) After proper notice and hearing, for a violation of these rules or Iowa Code chapter 147, 153, or 272C during the term of the last license or registration or renewal of license or registration.

14.3(2) Failure to pay required fees.

14.3(3) Failure to obtain required continuing education.

14.3(4) Failure to provide proof of current certification in cardiopulmonary resuscitation in a course that includes a clinical component.

14.3(5) Receipt of a certificate of noncompliance from the college student aid commission or the child support recovery unit of the department of human services in accordance with 650—chapter 33 and 650—Chapter 34.

This rule is intended to implement Iowa Code section 153.23 and chapters 147, 252J, 261, and 272C.

650—14.4(147,153,272C) Late fee. Failure to renew the license prior to September 1 following expiration shall result in a late fee of \$100 being assessed by the board in addition to the renewal fee. Failure to renew prior to October 1 following expiration shall result in a late fee of \$150 being assessed.

14.4(1) No renewal application shall be considered timely and sufficient until received by the board and accompanied by the material required for renewal and all applicable renewal and late fees.

14.4(2) Failure of a licensee to renew a license prior to November 1 following expiration shall cause the license to lapse and become invalid. A licensee whose license has lapsed and become invalid is

prohibited from the practice of dentistry or dental hygiene until the license is reinstated in accordance with rule 14.5(153).

This rule is intended to implement Iowa Code sections 147.10, 147.11, 153.30 and 272C.2.

650—14.5(147,153,272C) Reinstatement of a lapsed license or registration.

14.5(1) A licensee or a registrant who allows a license or registration to lapse by failing to renew may be reinstated at the discretion of the board by submitting the following:

a. A completed application for reinstatement of a lapsed license to practice dentistry or dental hygiene or application for reinstatement of a lapsed registration on the form provided by the board.

b. Dates and places of practice.

c. A list of other states in which licensed or registered and the identifying number of each license or registration.

d. Reasons for seeking reinstatement and why the license or registration was not maintained.

e. Payment of all renewal fees past due, not to exceed \$750, plus the reinstatement fee as specified in 650—Chapter 15.

f. Evidence of completion of a total of 15 hours of continuing education for each lapsed year or part thereof in accordance with 650—Chapter 25, up to a maximum of 75 hours. Dental assistants shall be required to submit evidence of completion of a total of 10 hours of continuing education for each lapsed year or part thereof in accordance with 650—20.12(153), up to a maximum of 50 hours.

g. If licensed or registered in another state, the licensee or registrant shall provide certification by the state board of dentistry or equivalent authority of such state that the licensee or registrant has not been the subject of final or pending disciplinary action.

h. A statement disclosing and explaining any disciplinary actions, investigations, claims, complaints, judgments, settlements, or criminal charges.

i. Evidence that the applicant possesses a current certificate in a nationally recognized course in cardiopulmonary resuscitation. The course must include a clinical component.

j. For reinstatement of a lapsed license, a completed fingerprint packet to facilitate a criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), including the fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and FBI, as specified in 650—Chapter 15.

14.5(2) The board may require a licensee or registrant applying for reinstatement to successfully complete an examination designated by the board prior to reinstatement if necessary to ensure the licensee or registrant is able to practice the licensee's or registrant's respective profession with reasonable skill and safety.

14.5(3) When the board finds that a practitioner applying for reinstatement is or has been subject to disciplinary action taken against a license or registration held by the applicant in another state of the United States, District of Columbia, or territory, and the violations which resulted in such actions would also be grounds for discipline in Iowa in accordance with rule 650—30.4(153), the board may deny reinstatement of a license or registration to practice dentistry, dental hygiene, or dental assisting in Iowa or may impose any applicable disciplinary sanctions as specified in rule 650—30.2(153) as a condition of reinstatement.

14.5(4) The dental hygiene committee may, in its discretion, review any applications for reinstatement of a lapsed dental hygiene license and make recommendations to the board. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code sections 147.10, 147.11, 153.30 and 272C.2.

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CHAPTER 15

FEES

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—15.1(153) License application fees. All fees are nonrefundable.

15.1(1) The application fee for a license to practice dentistry is \$200.

15.1(2) The application fee for a license to practice dental hygiene is \$100.

15.1(3) The application fee for a resident dentist license is \$120.

15.1(4) The application fee for a faculty permit is \$200.

15.1(5) The application fee for a license to practice dentistry issued on the basis of credentials is \$550.

15.1(6) The application fee for a license to practice dental hygiene issued on the basis of credentials is \$200.

15.1(7) The fee for a reinstatement application for inactive practitioners is \$50.

15.1(8) The fee for a reinstatement application for a lapsed license or registration is \$150.

15.1(9) The application fee for a general anesthesia permit is \$500.

15.1(10) The application fee for a conscious sedation permit is \$500.

15.1(11) The application or reinstatement fee for a permit to authorize a dental hygienist to administer local anesthesia is \$70.

15.1(12) The fee for an application for registration as a dental assistant trainee is \$25.

15.1(13) The fee for an application for registration as a registered dental assistant is \$40.

15.1(14) The fee for evaluation of a fingerprint packet and the criminal history background checks is \$46. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

15.1(15) The fee for an application for dental assistant radiography qualification is \$40.

15.1(16) The fee for an application for a temporary permit to serve an urgent need or provide educational services is \$100.

15.1(17) The fee for an application for a temporary permit to provide volunteer services is \$25.

650—15.2(153) Renewal fees. All fees are nonrefundable.

15.2(1) The fee for renewal of a license to practice dentistry for a biennial period is \$315 for an active practitioner and \$315 for an inactive practitioner.

15.2(2) The fee for renewal of a license to practice dental hygiene for a biennial period is \$150 for an active practitioner and \$150 for an inactive practitioner.

15.2(3) The fee for renewal of a general anesthesia permit is \$125.

15.2(4) The fee for renewal of a conscious sedation permit is \$125.

15.2(5) The fee for renewal of a permit to authorize a dental hygienist to administer local anesthesia is \$25.

15.2(6) The fee for renewal of registration as a registered dental assistant is \$75.

15.2(7) The fee for renewal of a certificate of qualification in dental radiography is \$40.

15.2(8) The fee for renewal of a faculty permit is \$315.

15.2(9) The fee for renewal or extension of a resident license is \$40.

650—15.3(153) Late renewal fees. All fees are nonrefundable. A licensee who fails to renew a license to practice following expiration is subject to late renewal fees pursuant to 650—Chapter 14. A registrant who fails to renew a registration to practice following expiration is subject to late renewal fees pursuant to 650—Chapter 20.

650—15.4(153) Miscellaneous fees. Payments made to the Iowa Board of Dental Examiners, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to release of the requested document.

15.4(1) The fee for issuance of a duplicate license, permit or registration certificate or current renewal is \$25.

15.4(2) The fee for a certification or written verification of an Iowa license, permit or registration is \$25.

15.4(3) The fee for the dental assistant trainee manual is \$70.

650—15.5(22,147,153) Public records. Public records are available according to 650—Chapter 6, “Public Records and Fair Information Practices.” Payment made to the Iowa Board of Dental Examiners, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to the release of the records.

15.5(1) Copies of public records shall be calculated at \$.25 per page plus labor. A \$16 per hour fee shall be charged for labor in excess of one-half hour for searching and copying documents or retrieving and copying information stored electronically. No additional fee shall be charged for delivery of the records by mail or fax. A fax is an option if the requested records are fewer than 30 pages. The board office shall not require payment when the fees for the request would be less than \$5 total.

15.5(2) Electronic copies of public records delivered by E-mail shall be calculated at \$.10 per page; the minimum charge shall be \$5. A \$16 per hour fee shall be charged for labor in excess of one-half hour for searching and copying documents or retrieving and copying information stored electronically. The board office shall not require payment when the fee for the request would be less than \$5 total.

15.5(3) Electronic files of statements of charges, final orders and consent agreements from each board meeting delivered via E-mail may be available for an annual subscription fee of \$24.

15.5(4) Printed copies of statements of charges, final orders and consent agreements from each board meeting shall be available for an annual subscription fee of \$120.

650—15.6(22,147,153) Purchase of a mailing list or data list. Payment made to the Iowa Board of Dental Examiners, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to the release of a list.

15.6(1) Mailing list. The standard mailing list for all active dental and dental hygiene licensees and dental assistant registrants includes the full name, address, city, state, and ZIP code. The standard mailing list of dentists or dental hygienists does not include resident licensees or faculty permit holders.

- a. Printed mailing list, \$65 per profession requested.
- b. Mailing list on diskette, \$45 per profession requested.
- c. Mailing list in an electronic file, \$35 per profession requested.

15.6(2) Data list for dentists, hygienists, or assistants. The standard data list for active licensees or registrants includes full name, address, Iowa county (if applicable), issue date, expiration date, license or registration number, and license or registration status. Additional data elements, programming or sorting increases the following fees by \$25.

- a. Printed standard data list, \$75 per profession requested.
- b. Standard data list on diskette, \$55 per profession requested.
- c. Standard data list in an electronic file, \$45 per profession requested.

650—15.7(147,153) Returned checks. The board shall charge a fee of \$25 for a check returned for any reason. If a license or registration had been issued by the board office based on a check that is later returned by the bank, the board shall request payment by certified check or money order. If the fees are not paid within two weeks of notification of the returned check by certified mail, the licensee or registrant shall be subject to disciplinary action for noncompliance with board rules.

650—15.8(147,153,272C) Copies of the laws and rules. Copies of laws and rules pertaining to the practice of dentistry, dental hygiene, or dental assisting are available from the board for the following fees.

1. Iowa Code and Iowa Administrative Code access, no fee, available at www.state.ia.us/dentalboard.
2. Printed copies of the Iowa Code chapters that pertain to the practice of dentistry, \$10.
3. Printed copies of dental board rules in the Iowa Administrative Code, \$15.

650—15.9(17A,147,153,272C) Waiver prohibited. Rules in this chapter are not subject to waiver pursuant to 650—Chapter 7 or any other provision of law.

These rules are intended to implement Iowa Code sections 147.10, 147.80 and 153.22.

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[◊] Two or more ARCs

CHAPTER 16
PRESCRIBING, ADMINISTERING, AND DISPENSING DRUGS
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—16.1(124,153,155A) Definitions.

“*Controlled substance*” means a drug or other substance listed in division II of Iowa Code chapter 124.

“*Electronic signature*” means a confidential personalized digital key, code, or number used for secure electronic data transmissions which identifies and authenticates the signatory.

“*Electronic transmission*” means the transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment. Electronic transmission includes but is not limited to transmission by facsimile machine and transmission by computer link, modem, or other computer communication device.

“*Prescription drug*” means any of the following: (a) a substance for which federal or state law requires a prescription before it may be legally dispensed to the public; (b) a drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (1) Caution: Federal law prohibits dispensing without a prescription or (2) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian; or (c) a drug or device that is required by any applicable federal or state law or regulation to be dispensed on prescription only, or is restricted to use by a practitioner only.

650—16.2(153) Scope of authority.

16.2(1) A license to practice dentistry issued by this board permits the licensee to prescribe, administer, or dispense prescription drugs if the use is directly related to the practice of dentistry within the scope of the dentist-patient relationship. Registration with the Federal Drug Enforcement Administration and the Iowa board of pharmacy examiners further extends this privilege to controlled substances.

16.2(2) A dental examination must be conducted and a medical history taken before a dentist initially prescribes, administers, or dispenses medication to a patient, except for patients who receive fluoride dispensed under protocols approved by the dental health bureau of the department of public health. The examination must focus on the patient’s dental problems, and the resulting diagnosis must relate to the patient’s specific complaint. The patient’s dental record must contain written evidence of the examination and medical history.

16.2(3) On each occasion when a medication is prescribed, administered, or dispensed to a patient an entry must be made in the patient’s dental record containing the following information: the name, quantity, and strength of the medication; the directions for its use; the date of issuance; and the condition for which the medication was used.

16.2(4) A patient’s dental record that contains an entry pertaining to the issuance of medications must be retained in accordance with 650—27.11(153,272C).

16.2(5) The prescribing, administering, and dispensing of prescription drugs shall be done in accordance with all applicable state and federal laws.

650—16.3(153) Purchasing, administering, and dispensing of controlled substances.

16.3(1) When controlled substances are purchased, records must be maintained showing the date of receipt, the name and address of the supplier, the name and quantity of drugs received.

16.3(2) When controlled substances are administered or dispensed, including samples, records that are readily retrievable and separate and apart from the patient records must be maintained showing date of dispensing, name and address of person to whom the drugs were administered or dispensed, and the name, quantity, and strength of drugs administered or dispensed.

16.3(3) All controlled substance records must be retained for a period of two years from the date of the last entry. All records must be readily available for inspection by state or federal agents.

16.3(4) Every two years the dentist is required to perform a complete inventory of all controlled substances in stock.

16.3(5) Security of controlled substances must be maintained by storage in a securely locked, substantially constructed cabinet.

16.3(6) The dentist shall notify the board of pharmacy examiners of the loss or theft of controlled substances within two weeks of the discovery of the loss or theft.

650—16.4(153) Dispensing—requirements for containers and labeling.

16.4(1) Containers. A prescription drug shall be dispensed in a container which meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. §§ 1471-1476 which relates to childproof closure, unless otherwise required by the patient. Containers must also meet the requirements of Section 502G of the Federal Food Drug and Cosmetic Act, 21 U.S.C. §301 et seq. which pertains to light resistance and moisture-resistance needs of the drug being dispensed.

16.4(2) Labeling. A label shall be affixed to the container in which a prescription drug is dispensed bearing the following information:

1. Name and address of the dentist.
2. Name of the patient.
3. Date dispensed.
4. Directions for use.
5. Name, quantity, and strength of medication.
6. If it is Schedule II, III, or IV controlled substance, the federal transfer warning statement must appear on the label as follows: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."
7. Cautionary statements, if any.

16.4(3) Prescription sample drugs dispensed in the original container or package and provided without charge shall be deemed to conform to labeling and packaging requirements.

650—16.5(153) Identifying information on prescriptions.

16.5(1) Prescriptions for Schedule II, III, IV, and V controlled substances must include the name and address of the prescribing dentist and the dentist's federal DEA number. The name and address of the prescribing dentist may be preprinted. Proper security shall be maintained if prescription forms are preprinted.

16.5(2) The dentist's signature on a prescription must be original or an electronic signature, not a copy or stamp, except as the use of electronic signatures may be limited by federal or state law.

16.5(3) On each occasion when medication is prescribed to a patient, the prescription issued to the patient shall contain the following information: the name of the patient for whom the prescription is intended; the name, quantity, and strength of the medication; the directions for its use; the date of issuance; and the name, address, and signature of the dentist issuing the prescription.

650—16.6(153) Transmission of prescriptions. A prescription drug order may be transmitted to a pharmacy in written form, orally including telephone voice communication, or by electronic transmission in accordance with applicable federal and state laws and rules. A dentist shall take adequate measures to guard against the diversion of prescription drugs and controlled substances through prescription forgeries. The dentist may authorize an employee to transmit to the pharmacy a prescription drug order orally or by electronic transmission provided that the identity of the transmitting employee is included in the order.

16.6(1) *Computer-to-computer transmission of a prescription.* Prescription drug orders, excluding orders for controlled substances, may be communicated directly from a dentist's computer to a pharmacy's computer by electronic transmission.

a. Orders shall be sent only to the pharmacy of the patient's choice with no unauthorized intervening person or other entity controlling, screening, or otherwise manipulating the prescription drug order or having access to it.

b. The electronically transmitted order shall identify the dentist's telephone number for verbal confirmation, the time and date of transmission, and the pharmacy intended to receive the transmission as well as any other information required by federal or state law or rules.

c. Orders shall be transmitted only by the dentist or the dentist's employee and shall include the dentist's electronic signature.

d. The electronic transmission shall be deemed the original prescription drug order provided it meets the requirements of this rule.

16.6(2) *Facsimile transmission of a prescription.* A dentist may request that a pharmacist dispense noncontrolled and controlled drugs, excluding Schedule II controlled substances, pursuant to a prescription transmitted to the pharmacy by the dentist or the dentist's employee. A dentist shall maintain the original prescription, if printed, in the patient's record.

650—16.7(153) Emergency prescriptions. If an emergency requires the issuance of a prescription, an appropriate prescription may be telephoned to a pharmacist. An emergency prescription for a Schedule II controlled substance must be covered by a written prescription within 72 hours. A dentist may not order a renewal or a refill of an emergency prescription unless the order is in writing and the dentist has given the patient a dental examination and has taken a medical history.

16.7(1) For the purpose of authorizing an oral prescription of a controlled substance listed in Schedule II of the uniform controlled substances Act, Iowa Code chapter 124, the term "emergency situation" means those situations in which the prescribing dentist determines:

a. That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user;

b. That no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under Schedule II of Iowa Code chapter 124;

c. That it is not reasonably possible for the prescribing dentist to provide a written prescription to be presented to the person dispensing the substance prior to dispensing.

16.7(2) Reserved.

These rules are intended to implement Iowa Code section 153.20.

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CHAPTERS 17 to 19
Reserved

TITLE IV
AUXILIARY PERSONNEL

CHAPTER 20

DENTAL ASSISTANTS

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—20.1(153) Registration required. A person shall not practice on or after July 1, 2001, as a dental assistant unless the person has registered with the board and received a certificate of registration pursuant to this chapter.

650—20.2(153) Definitions. As used in this chapter:

“Dental assistant” means any person who, under the supervision of a dentist, performs any extraoral services including infection control or the use of hazardous materials or performs any intraoral services on patients. The term “dental assistant” does not include persons otherwise actively licensed in Iowa to practice dental hygiene or nursing who are engaged in the practice of said profession.

“Direct supervision” means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room while the dental assistant is performing acts assigned by the dentist.

“General supervision” means that a dentist has delegated the services to be provided by a dental assistant. The dentist need not be present in the facility while these services are being provided.

“Personal supervision” means the dentist is physically present in the treatment room to oversee and direct all intraoral or chairside services of the dental assistant and a licensee or registrant is physically present to oversee and direct all extraoral services of the dental assistant.

650—20.3(153) Scope of practice.

20.3(1) In all instances, a dentist assumes responsibility for determining, on the basis of diagnosis, the specific treatment patients will receive and which aspects of treatment may be delegated to qualified personnel as authorized in these rules.

20.3(2) A licensed dentist may delegate to a dental assistant those procedures for which the dental assistant has received training. This delegation shall be based on the best interests of the patient. The dentist shall exercise supervision and shall be fully responsible for all acts performed by a dental assistant. A dentist may not delegate to a dental assistant any of the following:

- a. Diagnosis, examination, treatment planning, or prescription, including prescription for drugs and medicaments or authorization for restorative, prosthodontic or orthodontic appliances.
- b. Surgical procedures on hard and soft tissues within the oral cavity and any other intraoral procedure that contributes to or results in an irreversible alteration to the oral anatomy.
- c. Administration of local anesthesia.
- d. Placement of sealants.
- e. Removal of any plaque, stain, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish, or removal of any calculus.
- f. Dental radiography, unless the assistant is qualified pursuant to 650—Chapter 22.
- g. Those procedures that require the professional judgment and skill of a dentist.

20.3(3) A dentist may delegate an expanded function duty to a registered dental assistant if the assistant has completed board-approved training pursuant to rule 20.16(153) in the specific expanded function that will be delegated. The supervising dentist and registered dental assistant shall be responsible for maintaining in the office of practice documentation of board-approved training. In addition to the other duties authorized under this rule, a dentist may delegate any of the following expanded function duties:

- a. Taking occlusal registrations;
- b. Placement and removal of gingival retraction;
- c. Taking final impressions;
- d. Fabrication and removal of provisional restorations;
- e. Applying cavity liners and bases, desensitizing agents, and bonding systems;

- f. Placement and removal of dry socket medication;
- g. Placement of periodontal dressings;
- h. Testing pulp vitality; and
- i. Monitoring of nitrous oxide inhalation analgesia.

20.3(4) A dental assistant may perform duties consistent with these rules under the supervision of a licensed dentist. The specific duties dental assistants may perform are based upon:

- a. The education of the dental assistant.
- b. The experience of the dental assistant.

650—20.4(153) Categories of dental assistants. There are two categories of dental assistants. Both the supervising dentist and dental assistant are responsible for maintaining documentation of training. Such documentation must be maintained in the office of practice and shall be provided to the board upon request.

20.4(1) Dental assistant trainee. Dental assistant trainees are all individuals who are engaging in on-the-job training to meet the requirements for registration and who are learning the necessary skills under the personal supervision of a licensed dentist. Trainees may also engage in on-the-job training in dental radiography pursuant to 650—22.3(136C,153). The dental assistant trainee shall meet the following requirements:

a. Within 12 months of employment, the dental assistant trainee shall successfully complete a course of study and examination in the areas of infection control, hazardous materials, and jurisprudence. The course of study shall be prior approved by the board and sponsored by a board-approved postsecondary school.

b. Prior to satisfactorily completing 12 months of work as a dental assistant, the trainee must apply to the board to be reclassified as a registered dental assistant.

c. Dental assistant trainee status is valid for practice for a maximum of 12 months. If trainee status has expired, the trainee must meet the requirements for registration and receive a certificate of registration in order to practice as a dental assistant.

d. Notwithstanding paragraphs “b” and “c,” the expiration date for dental assistant trainee status for a person enrolled in a cooperative education or work-study program through an Iowa high school shall be extended until the trainee is 17 years of age and a high school graduate or equivalent. However, a trainee under 18 years of age shall not participate in dental radiography.

20.4(2) Registered dental assistant. A registered dental assistant may perform under general supervision dental radiography, intraoral suctioning, and all extraoral duties that are assigned by the dentist and are consistent with these rules. During intraoral procedures, the registered dental assistant may, under direct supervision, assist the dentist in performing duties assigned by the dentist that are consistent with these rules. The registered dental assistant may take radiographs if qualified pursuant to 650—Chapter 22.

20.4(3) Expanded function dental assistant. Rescinded IAB 9/17/03, effective 10/22/03.

650—20.5(153) Registration requirements prior to July 2, 2001.

20.5(1) A person employed as a dental assistant as of July 1, 2001, shall be registered with the board as a registered dental assistant without meeting the application requirements specified in 20.6(153), provided the application is postmarked by July 1, 2001.

20.5(2) Applications for registration prior to July 2, 2001, must be filed on official board forms and include the following:

- a. The fee as specified in 650—Chapter 15.
- b. Evidence of current employment as a dental assistant as demonstrated by a signed statement from the applicant’s employer.
- c. Evidence of current certification in dental radiography pursuant to 650—Chapter 22 if engaging in dental radiography.

20.5(3) Applications must be signed and verified by the applicant as to the truth of the documents and statements contained therein.

650—20.6(153) Registration requirements after July 1, 2001. Effective July 2, 2001, dental assistants must meet the following requirements for registration:

20.6(1) Dental assistant trainee.

a. The employer of a dental assistant trainee must notify the board in writing of such employment within seven days of the time the dental assistant begins work.

b. Applications for registration as a dental assistant trainee must be filed on official board forms and include the following:

- (1) The fee as specified in 650—Chapter 15.
- (2) Evidence of high school graduation.
- (3) Evidence the applicant is 17 years of age or older.
- (4) Any additional information required by the board relating to the character and experience of the applicant as may be necessary to evaluate the applicant's qualifications.
- (5) If the applicant does not meet the requirements of (2) and (3) above, evidence that the applicant is enrolled in a cooperative education or work-study program through an Iowa high school.

c. Within 12 months of employment, the dental assistant trainee is required to successfully complete a board-approved course of study and examination in the areas of infection control, hazardous materials, and jurisprudence. The course of study may be taken at a board-approved postsecondary school or on the job using curriculum approved by the board for such purpose. Evidence of meeting this requirement shall be submitted within 12 months by the employer dentist.

d. Upon expiration of the trainee status, the dental assistant trainee's supervising dentist must ensure that the trainee has received a certificate of registration before performing any further dental assisting duties.

20.6(2) Registered dental assistant.

a. To meet this qualification, a person must:

- (1) Work in a dental office for six months as a dental assistant trainee; or
- (2) Have had at least six months of prior dental assisting experience under a licensed dentist within the past two years; or
- (3) Be a graduate of a postsecondary dental assisting program; and
- (4) Be a high school graduate or equivalent; and
- (5) Be 17 years of age or older.

b. Applications for registration as a registered dental assistant must be filed on official board forms and include the following:

- (1) The fee as specified in 650—Chapter 15.
- (2) Evidence of meeting the requirements specified in 20.6(2) "a."
- (3) Evidence of successful completion of a course of study approved by the board and sponsored by a board-approved postsecondary school in the areas of infection control, hazardous materials, and jurisprudence. The course of study may be taken at a board-approved postsecondary school or on the job using curriculum approved by the board for such purpose.
- (4) Evidence of successful completion of a board-approved examination in the areas of infection control, hazardous materials, and jurisprudence.
- (5) Evidence of high school graduation or the equivalent.
- (6) Evidence the applicant is 17 years of age or older.
- (7) Evidence of meeting the qualifications of 650—Chapter 22 if engaging in dental radiography.
- (8) Evidence of current certification in cardiopulmonary resuscitation sponsored by a nationally recognized provider.
- (9) Any additional information required by the board relating to the character, education and experience of the applicant as may be necessary to evaluate the applicant's qualifications.

20.6(3) Rescinded IAB 9/17/03, effective 10/22/03.

20.6(4) All applications must be signed and verified by the applicant as to the truth of the documents and statements contained therein.

650—20.7(153) Registration denial. The board may deny an application for registration as a dental assistant for any of the following reasons:

1. Failure to meet the requirements for registration as specified in these rules.
2. Pursuant to Iowa Code section 147.4, upon any of the grounds for which registration may be revoked or suspended as specified in 650—Chapter 30.

650—20.8(147,153) Registration denied—appeal procedure. An applicant who has been denied registration by the board may appeal the denial and request a hearing on the issues related to the registration denial by serving a notice of the appeal and request for hearing upon the executive director not more than 30 days following the date of the mailing of the notification of registration denial to the applicant or not more than 30 days following the date upon which the applicant was served notice if notification was made in the manner of service of an original notice. The hearing and subsequent procedures shall be considered a contested case hearing and shall be governed by the procedures outlined in 650—Chapter 51.

This rule is intended to implement Iowa Code sections 147.3, 147.4 and 147.29.

650—20.9(153) Examination requirements. Beginning July 2, 2001, applicants for registration must successfully pass an examination approved by the board on infection control, hazardous waste, and jurisprudence.

20.9(1) Examinations approved by the board are those administered by the board or board's approved testing centers or the Dental Assisting National Board Infection Control Examination, if taken after June 1, 1991, in conjunction with the board-approved jurisprudence examination. In lieu of the board's infection control examination, the board may approve an infection control examination given by another state licensing board if the board determines that the examination is substantially equivalent to the examination administered by the board.

20.9(2) Information on taking the examination may be obtained by contacting the board office at 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

20.9(3) An examinee must meet such other requirements as may be imposed by the board's approved dental assistant testing centers.

20.9(4) A dental assistant trainee must successfully pass the examination within 12 months of the first date of employment. A dental assistant trainee who does not successfully pass the examination within 12 months shall be prohibited from working as a dental assistant until the dental assistant trainee passes the examination in accordance with these rules.

20.9(5) A score of 75 or better on the board infection control/hazardous material exam and a score of 75 or better on the board jurisprudence exam shall be considered successful completion of the examination. The board accepts the passing standard established by the Dental Assisting National Board for applicants who take the Dental Assisting National Board Infection Control Examination.

20.9(6) The written examination may be waived by the board, in accordance with the board's waiver rules at 650—Chapter 7, in practice situations where the written examination is deemed to be unnecessary or detrimental to the dentist's practice.

650—20.10(153) System of retaking dental assistant examinations.

20.10(1) Second examination.

a. On the second examination attempt, a dental assistant shall be required to obtain a score of 75 percent or better on each section of the examination.

b. A dental assistant who fails the second examination will be required to complete the remedial education requirements set forth in subrule 20.10(2).

20.10(2) Third and subsequent examinations.

a. Prior to the third examination attempt, a dental assistant must submit proof of additional formal education in the area of the examination failure in a program approved by the board or sponsored by a school accredited by the Commission on Dental Accreditation of the American Dental Association.

b. A dental assistant who fails the examination on the third attempt may not practice as a dental assistant in a dental office or clinic until additional remedial education approved by the board has been obtained.

c. For the purposes of additional study prior to retakes, the fourth or subsequent examination failure shall be considered the same as the third.

650—20.11(153) Renewal of registration. A certificate of registration as a registered dental assistant must be renewed biennially. Prior to June 30, 2007, registration expired on June 30 of every odd-numbered year. A registration due to expire on June 30, 2007, shall be automatically extended until August 30, 2007, and expire August 31, 2007. Beginning July 1, 2007, registration expires on August 31 of every odd-numbered year.

20.11(1) The board will notify each registrant by mail of the expiration of the registration.

20.11(2) Application for renewal must be made in writing to the board at least 30 days before the current registration expires.

20.11(3) The appropriate fee as specified in 650—Chapter 15 shall accompany the application for renewal. A penalty shall be assessed by the board for late renewal.

20.11(4) Failure to renew the registration prior to September 1 shall result in assessment of a late fee of \$20 in addition to the renewal fee. Failure to renew prior to October 1 shall result in assessment of a late fee of \$40. Failure to renew a registration prior to November 1 following expiration shall cause the registration to lapse and become invalid. A registrant whose registration has lapsed and become invalid is prohibited from practicing as a dental assistant until the registration is reinstated in accordance with 650—14.5(147,153,272C).

20.11(5) Completion of continuing education is required for renewal of an active registration. Failure to comply will automatically result in a lapsed registration.

20.11(6) In order to renew a registration, the registrant shall be required to furnish evidence of valid certification in a nationally recognized course in cardiopulmonary resuscitation.

20.11(7) The board may refuse to renew a registration in accordance with 650—14.3(153).

650—20.12(153) Continuing education. Beginning July 1, 2001, each person registered as a dental assistant shall complete 20 hours of continuing education approved by the board during the biennium period as a condition of registration renewal.

20.12(1) At least two continuing education hours must be in the subject area of infection control.

20.12(2) A maximum of three hours may be in cardiopulmonary resuscitation.

20.12(3) For dental assistants who have radiography qualification, at least two hours of continuing education must be obtained in the subject area of radiography.

20.12(4) For the renewal period July 1, 2001, to June 30, 2003, at least one hour of continuing education must be obtained in the subject area of jurisprudence.

650—20.13(252J,261) Receipt of certificate of noncompliance. The board shall consider the receipt of a certificate of noncompliance from the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127 and 650—Chapter 34 or receipt of a certificate of noncompliance of a support order from the child support recovery unit pursuant to Iowa Code chapter 252J and 650—Chapter 33. Registration denial or denial of renewal of registration shall follow the procedures in the statutes and board rules as set forth in this rule.

This rule is intended to implement Iowa Code chapter 252J and sections 261.121 to 261.127.

650—20.14(153) Unlawful practice. A dental assistant who assists a dentist in practicing dentistry in any capacity other than as a person supervised by a dentist in a dental office, or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor or director of a dental office as a guise or subterfuge to enable such dental assistant to engage directly or indirectly in the practice of dentistry, or who performs dental service directly or indirectly on or for members of the public other than as a person working for a dentist shall be deemed to be practicing dentistry without a license.

650—20.15(153) Advertising and soliciting of dental services prohibited. Dental assistants shall not advertise, solicit, represent or hold themselves out in any manner to the general public that they will furnish, construct, repair or alter prosthetic, orthodontic or other appliances, with or without consideration, to be used as substitutes for or as part of natural teeth or associated structures or for the correction of malocclusions or deformities, or that they will perform any other dental service.

650—20.16(153) Expanded function training approval. Expanded function training shall be eligible for board approval if the training is offered through a program accredited by the Commission on Dental Accreditation of the American Dental Association or another program prior-approved by the board, which may include on-the-job training offered by a dentist licensed in Iowa. Training must consist of the following:

1. An initial assessment to determine the base entry level of all participants in the program. At a minimum, participants must be currently certified by the Dental Assisting National Board or must have two years of clinical dental assisting experience as a registered dental assistant;
2. A didactic component;
3. A laboratory component, if necessary;
4. A clinical component, which may be obtained under the personal supervision of the participant's supervising dentist while the participant is concurrently enrolled in the training program; and
5. A postcourse competency assessment at the conclusion of the training program.

These rules are intended to implement Iowa Code chapter 153.

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¹ The Administrative Rules Review Committee at their May 21, 1979, meeting delayed the effective date of Chapters 20 and 21 70 days.

CHAPTER 21
DENTAL LABORATORY TECHNICIAN
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—21.1(153) Definition. “Dental laboratory technician” as used in these rules shall include a person other than a licensed dentist who fabricates, constructs, makes, or repairs oral prosthetic appliances solely and exclusively for a licensed dentist and under the dentist’s supervision or direction. A dental laboratory technician who performs any of the duties of a dental assistant, as defined in 650—20.2(153), must be registered with the board as a dental assistant.

650—21.2(153) Unlawful practice by dental laboratory technician. Any dental laboratory technician who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor, or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor or director of a dental office as a guise or subterfuge to enable such dental laboratory technician to engage directly or indirectly in the practice of dentistry, or who renders dental service directly or indirectly on or for members of the public other than as an employee or independent contractor for an employing dentist shall be deemed to be practicing dentistry without a license.

650—21.3(153) Advertising and soliciting dental services prohibited. No dental laboratory or dental laboratory technician shall advertise, solicit, represent or hold themselves, or itself out in any manner to the general public that they or it will furnish, construct, repair or alter prosthetic, orthodontic or other appliances, with or without consideration, to be used as substitutes for or as part of natural teeth or associated structures or for the correction of malocclusions or deformities, or that they or it will render any other dental service.

This chapter is intended to implement Iowa Code sections 153.17, 153.32(5) and 153.33.

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¹ At their meeting held May 21, 1979, the Administrative Rules Review Committee delayed the effective date of Chapter 21 for 70 days.

CHAPTER 22
DENTAL ASSISTANT RADIOGRAPHY QUALIFICATION
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—22.1(136C,153) Qualification required. A dental assistant shall not participate in dental radiography unless the assistant holds a current registration certificate and an active radiography qualification issued by the board, and a dentist provides general supervision.

650—22.2(136C,153) Definitions. As used in this chapter:

“*Dental radiography*” means the application of X-radiation to human teeth and supporting structures for diagnostic purposes only.

“*Radiography qualification*” means authorization to engage in dental radiography issued by the board.

650—22.3(136C,153) Exemptions. The following individuals are exempt from the requirements of this chapter.

22.3(1) A student enrolled in an accredited dental, dental hygiene, or dental assisting program, who, as part of the student’s course of study, applies ionizing radiation.

22.3(2) A person registered as a dental assistant trainee pursuant to 650—Chapter 20, who is engaging in on-the-job training in dental radiography and who is using curriculum approved by the board for such purpose.

650—22.4(136C,153) Application requirements for dental radiography qualification. Applications for dental radiography qualification must be filed on official board forms and include the following:

22.4(1) Evidence of one of the following requirements:

a. The applicant is a dental assistant trainee or registered dental assistant with an active registration status;

b. The applicant is a graduate of an accredited dental assisting program; or

c. The applicant is a nurse who holds an active Iowa license issued by the board of nursing.

22.4(2) The fee as specified in 650—Chapter 15.

22.4(3) Evidence of successful completion, within the previous two years, of a board-approved course of study in the area of dental radiography. The course of study must include application of radiation to humans pursuant to Iowa Code section 136C.3 and may be taken by the applicant:

a. On the job while under trainee status pursuant to 650—Chapter 20, using board-approved curriculum;

b. At a board-approved postsecondary school; or

c. From another program prior-approved by the board.

22.4(4) Evidence of successful completion of a board-approved examination in the area of dental radiography.

22.4(5) Any additional information required by the board relating to the character, education, and experience of the applicant as may be necessary to evaluate the applicant’s qualifications.

650—22.5(136C,153) Examination requirements. An applicant for dental assistant radiography qualification shall successfully pass a board-approved examination in dental radiography.

22.5(1) Examinations approved by the board are those administered by the board or board’s approved testing centers or, if taken after January 1, 1986, the Dental Assisting National Board Dental Radiation Health and Safety Examination.

22.5(2) A score of 75 or better on the board examination shall be considered successful completion of the examination. The board accepts the passing standard established by the Dental Assisting National Board for applicants who take the Dental Assisting National Board Radiation Health and Safety Examination.

22.5(3) Information on taking the examination may be obtained by contacting the board office at 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687.

22.5(4) A dental assistant must meet such other requirements as may be imposed by the board's approved dental assistant testing centers.

22.5(5) A dental assistant who fails to successfully complete the examination after two attempts will be required to submit, prior to each subsequent examination attempt, proof of additional formal education in dental radiography in a program approved by the board or sponsored by a school accredited by the Commission on Dental Accreditation of the American Dental Association.

650—22.6(136C,153) Renewal requirements. The dental assistant radiography qualification shall be renewed biennially at the time of registration renewal. Prior to July 1, 2007, the radiography qualification expired on June 30 of every odd-numbered year. A radiography qualification due to expire on June 30, 2007, shall be automatically extended until August 30, 2007, and expire August 31, 2007. Beginning July 1, 2007, the radiography qualification shall expire August 31 of every odd-numbered year.

22.6(1) The board will notify each registrant by mail of the expiration of the radiography qualification.

22.6(2) Application for renewal must be made in writing to the board at least 30 days before the radiography qualification expires.

22.6(3) In order to renew a radiography qualification, the dental assistant shall obtain at least two hours of continuing education in the subject area of dental radiography. Proof of attendance shall be retained by the dental assistant and must be submitted to the board upon request.

22.6(4) The dental assistant shall send the appropriate fee as specified in 650—Chapter 15 with the application for renewal of radiography qualification.

22.6(5) Failure to renew prior to November 1 following expiration shall cause the radiography qualification to lapse and become invalid. A dental assistant whose radiography qualification is lapsed is prohibited from engaging in dental radiography until the qualification is reinstated in accordance with 650—22.7(136C,153).

22.6(6) The board may refuse to renew a radiography qualification in accordance with 650—14.3(153).

650—22.7(136C,153) Reinstatement of lapsed radiography qualification. A dental assistant who allows a radiography qualification to lapse by failing to renew may be reinstated at the discretion of the board by submitting the following:

22.7(1) A completed application for reinstatement of dental assistant radiography qualification.

22.7(2) Payment of the radiography reinstatement fee of \$60 and the current renewal fee.

22.7(3) Proof of current registration as a dental assistant or dental assistant trainee or proof of an active Iowa nursing license.

22.7(4) If the radiography qualification has been lapsed for less than four years, proof of two hours of continuing education in the subject area of dental radiography, taken within the previous two-year period.

22.7(5) If the radiography qualification has been lapsed for more than four years, the dental assistant shall be required to retake and successfully complete an examination in dental radiography. A dental assistant who presents proof of a current radiography qualification issued by another state and who has engaged in dental radiography in that state is exempt from the examination requirement.

650—22.8(136C,153) Penalties.

22.8(1) Any individual except a licensed dentist or a licensed dental hygienist who participates in dental radiography in violation of this chapter or Iowa Code chapter 136C shall be subject to the criminal and civil penalties set forth in Iowa Code sections 136C.4 and 136C.5.

22.8(2) Any licensee who permits a person to engage in dental radiography or a registrant who engages in dental radiography contrary to this chapter or Iowa Code chapter 136C shall be subject to discipline by the board pursuant to 650—Chapter 30.

These rules are intended to implement Iowa Code section 136C.3 and chapter 153.

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CHAPTERS 23 and 24
Reserved

TITLE V
PROFESSIONAL STANDARDS
CHAPTER 25
CONTINUING EDUCATION
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—25.1(153) Definitions. For the purpose of these rules on continuing education, definitions shall apply:

“Advisory committee.” An advisory committee on continuing education shall be formed to review and advise the board with respect to applications for approval of sponsors or activities and requests for postapproval of activities. Its members shall be appointed by the board and consist of a member of the board, two licensed dentists with expertise in the area of professional continuing education, two licensed dental hygienists with expertise in the area of professional continuing education, and two registered dental assistants with expertise in the area of professional continuing education. The advisory committee on continuing education may tentatively approve or deny applications or requests submitted to it pending final approval or disapproval of the board at its next meeting.

“Approved program or activity” means a continuing education program activity meeting the standards set forth in these rules which has received advanced approval by the board pursuant to these rules.

“Approved sponsor” means a person or an organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such person or organization may be deemed automatically approved provided they meet the continuing education guidelines of the board.

“Board” means the board of dental examiners.

“Continuing dental education” consists of education activities designed to review existing concepts and techniques and to update knowledge on advances in dental and medical sciences. The objective is to improve the knowledge, skills, and ability of the individual to deliver the highest quality of service to the public and professions.

Continuing dental education should favorably enrich past dental education experiences. Programs should make it possible for practitioners to attune dental practice to new knowledge as it becomes available. All continuing dental education should strengthen the skills of critical inquiry, balanced judgment and professional technique.

“Hour” of continuing education means one unit of credit which shall be granted for each hour of contact instruction and shall be designated as a “clock hour.” This credit shall apply to either academic or clinical instruction.

“Licensee” means any person licensed to practice dentistry or dental hygiene in the state of Iowa.

“Registrant” means any person registered to practice as a dental assistant in the state of Iowa.

650—25.2(153) Continuing education requirements.

25.2(1) Each person licensed to practice dentistry or dental hygiene in this state shall complete during the biennium renewal period a minimum of 30 hours of continuing education approved by the board. However, for the dental hygiene renewal period beginning July 1, 2006, and ending August 30, 2007, a dental hygienist shall complete a minimum of 12 hours of continuing education approved by the board.

25.2(2) The continuing education compliance period shall be the 24-month period commencing September 1 and ending on August 31 of the renewal cycle. However, for the dental hygiene renewal period beginning July 1, 2006, and ending August 30, 2007, the continuing education compliance period for dental hygienists shall be the 14-month period commencing July 1, 2006, and ending August 30, 2007. For the dental assistant renewal period beginning July 1, 2005, and ending August 30, 2007, the continuing education compliance period for dental assistants shall be the previous 26-month period. For the dental license renewal period beginning July 1, 2006, and ending August 30, 2008, the continuing education compliance period for dentists shall be the previous 26-month period.

25.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity, either previously approved by the board or which otherwise meets the requirement herein and is approved by the board pursuant to subrule 25.3(5).

25.2(4) It is the responsibility of each licensee or registrant to finance the costs of continuing education.

25.2(5) Every licensee or registrant shall maintain a record of all courses attended by keeping the certificates of attendance for four years after the end of the year of attendance. The board reserves the right to require any licensee or registrant to submit the certificates of attendance for the continuing education courses attended.

25.2(6) Licensees and registrants are responsible for obtaining proof of attendance forms when attending courses. Clock hours must be verified by the sponsor with the issuance of proof of attendance forms to the licensee or registrant.

25.2(7) Each licensee or registrant shall file a signed continuing education reporting form reflecting the required minimum number of continuing education credit hours in compliance with this chapter and 650—Chapter 20. Such report shall be filed with the board at the time of application for renewal of a dental or dental hygiene license or renewal of dental assistant registration.

25.2(8) No carryover of credits from one biennial period to the next will be allowed.

25.2(9) Mandatory training for child abuse and dependent adult abuse reporting.

a. Licensees or registrants who regularly examine, attend, counsel or treat children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or conditions for exemptions as identified in paragraph “*f*” of this subrule.

b. Licensees or registrants who regularly examine, attend, counsel or treat adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or conditions for exemptions as identified in paragraph “*f*” of this subrule.

c. Licensees or registrants who regularly examine, attend, counsel or treat both children and adults in Iowa shall indicate on the renewal application completion of at least two hours of training on the identification and reporting of abuse in children and dependent adults in the previous five years or conditions for exemptions as identified in paragraph “*f*” of this subrule. Training may be completed through separate courses or in one combined course that includes curricula for identifying and reporting child abuse and dependent adult abuse. Up to three hours of continuing education may be awarded for taking a combined course.

d. The licensee or registrant shall maintain written documentation for five years after completion of the mandatory training, including program date(s), content, duration, and proof of participation. The board may audit this information at any time within the five-year period.

e. Training programs in child and dependent adult abuse identification and reporting that are approved by the board are those that use a curriculum approved by the abuse education review panel of the department of public health or a training program offered by the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

f. Exemptions. Licensees and registrants shall be exempt from the requirement for mandatory training for identifying and reporting child and dependent adult abuse if the board determines that it is in the public interest or that at the time of the renewal the licensee or registrant is issued an extension or exemption pursuant to 650—25.7(153).

25.2(10) Licensees, faculty permit holders, and registrants shall furnish evidence of valid certification for cardiopulmonary resuscitation, which shall be credited toward the continuing education requirement for renewal of the license, faculty permit or registration. Such evidence shall be filed at the time of renewal of the license, faculty permit or registration. Credit hours awarded shall not exceed three continuing education credit hours per biennium. Valid certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent

basis, evidence that the licensee or registrant has been properly certified for each year covered by the renewal period. In addition, the course must include a clinical component.

650—25.3(153) Approval of programs and activities. A continuing education activity shall be qualified for approval if the board determines that:

25.3(1) It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee or registrant; and

25.3(2) It pertains to common subjects or other subject matters which relate integrally to the practice of dentistry, dental hygiene, or dental assisting which are intended to refresh and review, or update knowledge of new or existing concepts and techniques; and

25.3(3) It is conducted by individuals who have special education, training and experience to be considered experts concerning the subject matter of the program. The program must include a manual or written outline that substantively pertains to the subject matter of the program.

25.3(4) Activity types acceptable for continuing dental education credit may include:

a. Attendance at a multiply convention-type meeting. A multiday, convention-type meeting is held at a national, state, or regional level and involves a variety of concurrent educational experiences directly related to the practice of dentistry. Effective July 1, 2000, attendees shall receive three hours of credit with the maximum allowed six hours of credit per biennium. Prior to July 1, 2000, attendees received five hours of credit with the maximum allowed ten hours of credit per biennium. Four hours of credit shall be allowed for presentation of an original table clinic at a convention-type meeting as verified by the sponsor when the subject matter conforms with 25.3(7). Attendees at the table clinic session of a dental, dental hygiene, or dental assisting convention shall receive two hours of credit as verified by the sponsor.

b. Postgraduate study relating to health sciences shall receive 15 credits per semester.

c. Successful completion of Part II of the National Board Examination for dentists, or the National Board Examination for dental hygienists, if taken five or more years after graduation, or a recognized specialty examination will result in 15 hours of credit.

d. Self-study activities shall result in a maximum of 12 hours of credit per biennium. Activity may include television viewing, video programs, correspondence work or research or computer CD-ROM programs that are interactive and require branching, navigation, participation and decision making on the part of the viewer.

e. Original presentation of continuing dental education courses shall result in credit double that which the participant receives. Credit will not be granted for repeating presentations within the biennium. Credit is not given for teaching that represents part of the licensee's or registrant's normal academic duties as a full-time or part-time faculty member or consultant.

f. Publications of scientific articles in professional journals related to dentistry, dental hygiene, or dental assisting shall result in a maximum of 5 hours per article, maximum of 20 hours per biennium.

g. Credit may be given for other continuing education activities upon request and approval by the Iowa board of dental examiners.

25.3(5) Prior approval of activities. An organization or person, other than an approved sponsor, that desires prior approval for a course, program or other continuing education activity or that desires to establish approval of the activity prior to attendance shall apply for approval to the board at least 90 days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny the application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information. An application fee of \$10, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, is required.

25.3(6) Postapproval of activities. A licensee or registrant seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved may submit to the board, within 60 days after completion of such activity, its dates, subjects, instructors, and their qualifications, the number of credit hours and proof of attendance. Within 90 days after receipt of such application the board shall advise the licensee or registrant in writing by ordinary mail whether the activity is approved and the number of hours allowed. All requests may be reviewed

by the advisory committee on continuing education prior to final approval or denial by the board. A licensee or registrant not complying with the requirements of this paragraph may be denied credit for such activity. An application fee of \$10, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, is required.

25.3(7) Subject matter acceptable for continuing dental education credit:

a. In order for specific course subject material to be acceptable for credit, the stated course objectives, overall curriculum design or course outlines shall clearly establish conformance with the following criteria:

- (1) The subject matter is of value to dentistry and directly applicable to oral health care.
- (2) The information presented enables the dental professional to enhance the dental health of the public.
- (3) The dental professional is able to apply the knowledge gained within the professional capacity of the individual.
- (4) The dental science courses include, but are not limited to, those within the eight recognized dental specialty areas and topics such as geriatric dentistry, hospital dentistry, oral diagnosis, oral rehabilitation and preventative dentistry.

b. Acceptable subject matter includes courses in patient treatment record keeping, risk management, communication and OSHA regulations. A course on Iowa jurisprudence that has been prior-approved by the board is also acceptable subject matter.

c. Unacceptable subject matter includes personal development, business aspects of practice, personnel management, government regulations, insurance, collective bargaining, and community service presentations. While desirable, those subjects are not applicable to dental skills, knowledge, and competence. Therefore, such courses will receive no credit toward renewal. The board may deny credit for any course.

25.3(8) Inquiries relating to acceptability of continuing dental education activities, approval of sponsors, or exemptions should be directed to Advisory Committee on Continuing Dental Education, Iowa Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

650—25.4(153) Approval of sponsors.

25.4(1) An organization or person not previously approved by the board, which desires approval as a sponsor of courses, programs, or other continuing education activities, shall apply for approval to the board stating its education history for the preceding two years, including approximate dates, subjects offered, total hours of instruction presented, and names and qualifications of instructors. All applications shall be reviewed by the advisory committee on continuing education prior to final approval or denial by the board.

25.4(2) Prospective sponsors must apply to the board of dental examiners using a “Sponsor Approval Form” in order to obtain approved sponsor status. An application fee of \$100 is required, which shall be considered a repayment receipt as defined in Iowa Code section 8.2. Board-approved sponsors must pay the biennial renewal fee of \$100, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, and file a sponsor recertification record report biennially.

25.4(3) The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees or registrants in attendance and send a signed copy of such attendance record to the board office upon completion of the activity, but in no case later than July 1 of even-numbered years. The report shall be sent to the Iowa Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. The sponsor of the continuing education activity shall also provide proof of attendance and the number of credit hours awarded to the licensee or registrant who participates in the continuing education activity.

25.4(4) Sponsors must be formally organized and adhere to board rules for planning and providing continuing dental education activities. Programs sponsored by individuals or institutions for commercial or proprietary purposes, especially programs in which the speaker advertises or urges the use of any particular dental product or appliance, may be recognized for credit on a prior approval basis only. When courses are promoted as approved continuing education courses which do not meet the requirements

as defined by the board, the sponsor will be required to refund the registration fee to the participants. Approved sponsors may offer noncredit courses provided the participants have been informed that no credit will be given. Failure to meet this requirement may result in loss of approved sponsor status.

650—25.5(153) Review of programs or sponsors. The board on its own motion or at the recommendation of the advisory committee on continuing education may monitor or review any continuing education program or sponsors already approved by the board. Upon evidence of significant variation in the program presented from the program approved, the board may disapprove all or any part of the approved hours granted to the program or may rescind the approval status of the sponsor.

650—25.6(153) Hearings. In the event of denial, in whole or in part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee, or registrant shall have the right, within 20 days after the sending of the notification of the denial by ordinary mail, to request a hearing which shall be held within 60 days after receipt of the request for hearing. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a transcript of the hearing with the proposed decision of the hearing officer. The decision of the board or decision of the hearing officer after adoption by the board shall be final.

650—25.7(153) Extensions and exemptions.

25.7(1) *Illness or disability.* The board may, in individual cases involving physical disability or illness, grant an exemption of the minimum education requirements or an extension of time within which to fulfill the same or make the required reports. No exemption or extension of time shall be granted unless written application is made on forms provided by the board and signed by the licensee or registrant and a physician licensed by the board of medical examiners. Extensions or exemptions of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the physical disability or illness upon which an exemption has been granted continues beyond the period granted, the licensee or registrant must reapply for an extension of the exemption. The board may, as a condition of the exemption, require the applicant to make up a certain portion or all of the minimum educational requirements.

25.7(2) *Other extensions or exemptions.* Extensions or exemptions of continuing education requirements will be considered by the board on an individual basis. Licensees or registrants will be exempt from the continuing education requirements for:

- a. Periods that the person serves honorably on active duty in the military services;
- b. Periods that the person practices the person's profession in another state or district having a continuing education requirement and the licensee or registrant meets all requirements of that state or district for practice therein;
- c. Periods that the person is a government employee working in the person's licensed or registered specialty and assigned to duty outside the United States;
- d. Other periods of active practice and absence from the state approved by the board;
- e. The current biennium renewal period, or portion thereof, following original issuance of the license.
- f. For dental assistants registered pursuant to 650—20.6(153), the current biennium renewal period, or portion thereof, following original issuance of the registration.

650—25.8(153) Exemptions for inactive practitioners. A licensee or registrant who is not engaged in practice in the state of Iowa, residing in or out of the state of Iowa, may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of the applicant's profession in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

650—25.9(153) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa, satisfy the following requirements for reinstatement:

25.9(1) Submit written application for reinstatement to the board upon forms provided by the board; and

25.9(2) Furnish in the application evidence of one of the following:

a. The full-time practice of the profession in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under the rules; or

b. Completion of a total number of hours of accredited continuing education computed by multiplying 15 by the number of years a certificate of exemption shall have been in effect for a dentist or dental hygienist, up to a maximum of 75 hours for a dentist or dental hygienist, or by multiplying 10 by the number of years a certificate of exemption shall have been in effect for a dental assistant, up to a maximum of 50 hours for a dental assistant; or

c. Successful completion of CRDTS or other Iowa state license or registration examination conducted within one year immediately prior to the submission of such application for reinstatement; or

d. The licensee or registrant may petition the board to determine the continuing education credit hours required for reinstatement of the Iowa license or registration.

25.9(3) Applications must be filed with the board along with the following:

a. Certification by the state board of dentistry or equivalent authority in which applicant has engaged in the practice of the applicant's profession that the applicant has not been the subject of final or pending disciplinary action.

b. Statement as to any claims, complaints, judgments or settlements made with respect to the applicant arising out of the alleged negligence or malpractice in rendering professional services as a dentist, dental hygienist, or dental assistant.

650—25.10(153) Noncompliance with continuing dental education requirements. It is the licensee's or registrant's personal responsibility to comply with these rules. The license or registration of individuals not complying with the continuing dental education rules may be subject to disciplinary action by the board or nonrenewal of the license or registration.

650—25.11(153) Dental hygiene continuing education. The dental hygiene committee, in its discretion, shall make recommendations to the board for approval or denial of requests pertaining to dental hygiene education. The dental hygiene committee may utilize the continuing education advisory committee as needed. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1. The following items pertaining to dental hygiene shall be forwarded to the dental hygiene committee for review.

1. Dental hygiene continuing education requirements and requests for approval of programs, activities and sponsors.

2. Requests by dental hygienists for waivers, extensions and exemptions of the continuing education requirements.

3. Requests for exemptions from inactive dental hygiene practitioners.

4. Requests for reinstatement from inactive dental hygiene practitioners.

5. Appeals of denial of dental hygiene continuing education and conduct hearings as necessary.

These rules are intended to implement Iowa Code sections 147.10, 153.15A, and 153.39 and chapter 272C.

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CHAPTER 26
ADVERTISING

[Prior to 5/18/88, Dental Examiners, Board of [320]]

650—26.1(153) General. Communications by inclusion or omission to the public must be accurate. They must not convey false, untrue, deceptive, or misleading information through statements, testimonials, photographs, graphics or other means. Communications must not appeal to an individual's anxiety in an excessive or unfair way; and they must not create unjustified expectations of results. If communications refer to benefits or other attributes of dental procedures or products that involve significant risks, realistic assessments of the safety and efficacy of those procedures or products must also be included, as well as the availability of alternatives and, where necessary to avoid deception, descriptions or assessments of the benefits or other attributes of those alternatives. Communications must not misrepresent a dentist's credentials, training, experience or ability, and must not contain material claims of superiority that cannot be substantiated.

There are several areas that the board believes to be susceptible to deceptive or misleading statements. While the board does not intend to discourage dentists from engaging in any form of truthful, nondeceptive advertising, dentists engaging in the type of advertising listed below shall take special care to ensure that their ads are consistent with these rules.

26.1(1) Claims that the service performed or the materials used are professionally superior to that which is ordinarily performed or used or that convey the message that one licensee is better than another when superiority of service or materials cannot be substantiated.

26.1(2) The use of an unearned or nonhealth degree in general announcements to the public.

26.1(3) The use of attainment of an honorary fellowship in an advertisement. An honorary fellowship does not include an award based on merit, study or research. However, the attainment of the fellowship status may be indicated in scientific papers, curriculum vitae, third party payment forms, and letterhead and stationery which is not used for the direct solicitation of patients.

26.1(4) Promotion of a professional service which the dentist knows or should know is beyond the dentist's ability to perform.

26.1(5) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective patient.

26.1(6) The use of any personal testimonial attesting to a quality of competence of a service or treatment offered by a licensee that is not reasonably verifiable.

26.1(7) Utilizing any statistical data or other information based on past performance or predication of future success, which creates an unjustified expectation about results that the dentist can achieve.

26.1(8) The communication of personally identifiable facts, data, or information about a patient without first obtaining patient consent.

26.1(9) Any misrepresentation of a material fact.

26.1(10) The knowing suppression, omission or concealment of any material fact or law without which the communication would be deceptive.

26.1(11) Any communication which creates an unjustified expectation concerning the potential result of any dental treatment.

26.1(12) Where the circumstances indicate "bait and switch" advertising, the board may require the advertiser to furnish to the board data or other evidence pertaining to those sales at the advertised price as well as other sales. Where the circumstances indicate deceptive advertising, the board will initiate an investigation or disciplinary action as warranted.

650—26.2(153) Requirements. The board of dental examiners may require a dentist to substantiate the truthfulness of any assertion or representation of material fact set forth in an advertisement.

26.2(1) At the time an advertisement is placed, the dentist must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission, or representation of material fact set forth in the advertisement.

26.2(2) The failure to possess and rely upon the information required in subrule 26.2(1) at the time the advertisement is placed shall be deemed professional misconduct.

26.2(3) The failure or refusal to provide the factual substantiation to support a representation or assertion when requested by the board shall be deemed professional misconduct.

650—26.3(153) Fees. Advertising that states a fee must clearly define the professional service being offered in the advertisement. Advertised offers shall be presumed to include everything ordinarily required for such a service.

650—26.4(153) Public representation. All advertisement and public representations shall contain the name and address or telephone number of the practitioner who placed the ad.

26.4(1) If one's practice is referred to in the advertisement, the ad may state either "general/family practice" or the American Dental Association recognized specialty that the practitioner practices.

26.4(2) No dentist may state or imply that the dentist is certified as a specialist when that is not the case. Use of the terms "specialist," "specializing in" or other similar terms in connection with areas that are not recognized as specialties pursuant to 650—Chapter 28 is not permitted.

26.4(3) Dentists may advertise the areas in which they practice using other descriptive terms such as "emphasis on _____" or other similar terms.

650—26.5(153) Responsibility. Each professional who is a principal partner, officer, or licensed professional employee, acting as an agent of the firm or entity identified in the advertisement, is jointly and severally responsible for the form and content of any advertisement offering services or materials.

650—26.6(153) Advertisement records. A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media indicating the date and place of the advertisement shall be retained by the dentist for a period of two years and be made available for review upon request by the board or its designee.

These rules are intended to implement Iowa Code sections 153.33 and 153.34.

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¹ Effective date of 650—Chapter 26 delayed by the Administrative Rules Review Committee 70 days.

CHAPTER 27
STANDARDS OF PRACTICE AND
PRINCIPLES OF PROFESSIONAL ETHICS

650—27.1(153) General.

27.1(1) *Dental ethics.* The following principles relating to dental ethics are compatible with the Code of Professional Ethics and advisory opinions published in August 1998 by the American Dental Association. These principles are not intended to provide a limitation on the ability of the board to address problems in the area of ethics but rather to provide a basis for board review of questions concerning professional ethics. The dentist's primary professional obligation shall be service to the public with the most important aspect of that obligation being the competent delivery of appropriate care within the bounds of the clinical circumstances presented by the patient, with due consideration being given to the needs and desires of the patient. Unprofessional conduct includes, but is not limited, to any violation of these rules.

27.1(2) *Dental hygiene ethics.* The following principles relating to dental hygiene ethics are compatible with the Code of Ethics of the American Dental Hygienists' Association published in 1995. Standards of practice for dental hygienists are compatible with the Iowa dental hygienists' association dental hygiene standards of practice adopted in May 1993. These principles and standards are not intended to provide a limitation on the ability of the dental hygiene committee to address problems in the area of ethics and professional standards for dental hygienists but rather to provide a basis for committee review of questions regarding the same. The dental hygienist's primary responsibility is to provide quality care and service to the public according to the clinical circumstances presented by the patient, with due consideration of responsibilities to the patient and the supervising dentist according to the laws and rules governing the practice of dental hygiene.

27.1(3) *Dental assistant ethics.* Dental assistants shall utilize the principles of professional dental and dental hygiene ethics for guidance, and the laws and rules governing the practice of dental assisting.

650—27.2(153,272C) Patient acceptance. Dentists, in serving the public, may exercise reasonable discretion in accepting patients in their practices; however, dentists shall not refuse to accept patients into their practice or deny dental service to patients because of the patient's race, creed, sex or national origin.

650—27.3(153) Emergency service. Emergency services in dentistry are deemed to be those services necessary for the relief of pain or to thwart infection and prevent its spread.

27.3(1) Dentists shall make reasonable arrangements for the emergency care of their patients of record.

27.3(2) Dentists shall, when consulted in an emergency by patients not of record, make reasonable arrangements for emergency care.

650—27.4(153) Consultation and referral.

27.4(1) Dentists shall seek consultation, if possible, whenever the welfare of patients will be safeguarded or advanced by utilizing those practitioners who have special skills, knowledge and experience.

27.4(2) The specialist or consulting dentist upon completion of their care shall return the patient, unless the patient expressly states a different preference, to the referring dentist or, if none, to the dentist of record for future care.

27.4(3) The specialist shall be obliged, when there is no referring dentist and upon completion of the treatment, to inform the patient when there is a need for further dental care.

27.4(4) A dentist who has a patient referred for a second opinion regarding a diagnosis or treatment plan recommended by the patient's treating dentist, should render the requested second opinion in accordance with these rules. In the interest of the patient being afforded quality care, the dentist rendering the second opinion should not have a vested interest in the ensuing recommendation.

650—27.5(153) Use of personnel. Dentists shall protect the health of their patients by assigning to qualified personnel only those duties that can be legally delegated. Dentists shall supervise the work of all personnel working under their direction and control.

650—27.6(153) Evidence of incompetent treatment.

27.6(1) Licensees or registrants shall report to the board instances of gross or continually faulty treatment by other licensees or registrants.

27.6(2) Licensees or registrants may provide expert testimony when that testimony is essential to a just and fair disposition of a judicial or administrative action.

650—27.7(153) Representation of care and fees.

27.7(1) Dentists shall not represent the care being rendered to their patients or the fees being charged for providing the care in a false or misleading manner.

27.7(2) A dentist who accepts a third-party payment under a copayment plan as payment in full without disclosing to the third-party payer that the patient's payment portion will not be collected is engaging in deception and misrepresentation by this overbilling practice.

27.7(3) A dentist shall not increase a fee to a patient solely because the patient has insurance.

27.7(4) Payments accepted by a dentist under a governmentally funded program, a component or constituent dental society sponsored access program, or a participating agreement entered into under a program of a third party shall not be considered as evidence of overbilling in determining whether a charge to a patient or to another third party on behalf of a patient not covered under any of these programs, constitutes overbilling under this rule.

27.7(5) A dentist who submits a claim form to a third party reporting incorrect treatment dates is engaged in making unethical, false or misleading representations.

27.7(6) A dentist who incorrectly describes a dental procedure on a third party claim form in order to receive a greater payment or incorrectly makes a noncovered procedure appear to be a covered procedure is engaged in making an unethical, false or misleading representation to the third party.

27.7(7) A dentist who recommends or performs unnecessary dental services or procedures is engaged in unprofessional conduct.

27.7(8) Rescinded IAB 5/14/03, effective 6/18/03.

650—27.8(153) General practitioner announcement of services. General dentists who wish to announce the services available in their practices are permitted to announce the availability of those services so long as they avoid any communications that express or imply specialization. General dentists shall also state that the services are being provided by a general dentist.

650—27.9(153) Unethical and unprofessional conduct.

27.9(1) Licensee or registrant actions determined by the board to be abusive, coercive, intimidating, harassing, untruthful or threatening in connection with the practice of dentistry shall constitute unethical or unprofessional conduct.

27.9(2) A treatment regimen shall be fully explained and patient authorization obtained before treatment is begun.

27.9(3) A licensee or registrant determined to be infected with HIV or HBV shall not perform an exposure-prone procedure except as approved by the expert review panel as specified in Iowa Code section 139A.22, established by the Iowa department of public health, or if the licensee or registrant works in a hospital setting, the licensee or registrant may elect either the expert review panel established by the hospital or the expert review panel established by the Iowa department of public health for the purpose of making a determination of the circumstances under which the licensee or registrant may perform exposure-prone procedures. The licensee or registrant shall comply with the recommendations of the expert review panel. Failure to do so shall constitute unethical and unprofessional conduct and is grounds for disciplinary action by the board.

27.9(4) Knowingly providing false or misleading information to the board or an agent of the board is considered unethical and unprofessional conduct.

650—27.10(153) Retirement or discontinuance of practice.

27.10(1) A licensee, upon retirement, or upon discontinuation of the practice of dentistry, or upon leaving or moving from a community, shall notify all active patients in writing, or by publication once a week for three consecutive weeks in a newspaper of general circulation in the community, that the licensee intends to discontinue the practice of dentistry in the community, and shall encourage patients to seek the services of another licensee. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies thereof, to the succeeding licensee. “Active patient” means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to retirement, discontinuation of the practice of dentistry, or leaving or moving from a community.

27.10(2) Nothing herein provided shall prohibit a licensee from conveying or transferring the licensee’s patient records to another licensed dentist who is assuming a practice, provided that written notice is furnished to all patients as hereinbefore specified.

650—27.11(153,272C) Record keeping. Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Records shall be permanent, timely, accurate, legible, and easily understandable.

27.11(1) Dental records. Dentists shall maintain dental records for each patient. The records shall contain all of the following:

a. Personal data.

(1) Name, date of birth, address and, if a minor, name of parent or guardian.

(2) Name and telephone number of person to contact in case of emergency.

b. Dental and medical history. Dental records shall include information from the patient or the patient’s parent or guardian regarding the patient’s dental and medical history. The information shall include sufficient data to support the recommended treatment plan.

c. Patient’s reason for visit. When a patient presents with a chief complaint, dental records shall include the patient’s stated oral health care reasons for visiting the dentist.

d. Clinical examination progress notes. Dental records shall include chronological dates and descriptions of the following:

(1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;

(2) Plan of intended treatment and treatment sequence;

(3) Services rendered and any treatment complications;

(4) All radiographs, study models, and periodontal charting, if applicable;

(5) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and

(6) Name of dentist, dental hygienist, or any other auxiliary, who performs any treatment or service or who may have contact with a patient regarding the patient’s dental health.

e. Informed consent. Dental records shall include, at a minimum, documentation of informed consent that includes discussion of procedure(s), treatment options, potential complications and known risks, and patient’s consent to proceed with treatment.

27.11(2) Retention of records. A dentist shall maintain a patient’s dental record for a minimum of six years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for a minimum of either (a) one year after the patient reaches the age of majority (18), or (b) six years, whichever is longer. Proper safeguards shall be maintained to ensure safety of records from destructive elements.

27.11(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, a dentist shall keep either a duplicate hard copy record or use an unalterable electronic record.

27.11(4) *Correction of records.* Notations shall be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by a dental health care worker.

27.11(5) *Confidentiality and transfer of records.* Dentists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient's legal guardian, the dentist shall furnish the dental records or copies or summaries of the records, including dental radiographs or copies of the radiographs, as will be beneficial for the future treatment of that patient. The dentist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

650—27.12(17A,147,153,272C) Waiver prohibited. Rules in this chapter are not subject to waiver pursuant to 650—Chapter 7 or any other provision of law.

These rules are intended to implement Iowa Code sections 153.34(7), 153.34(9), 272C.3, 272C.4(1f) and 272C.4(6).

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CHAPTER 28
DESIGNATION OF SPECIALTY
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—28.1(153) General review. A dentist may represent that the dentist is a specialist in the specialties of dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, prosthodontics, or oral and maxillofacial radiology provided the requirements of that area of specialty have been met. The board recognizes there are overlapping responsibilities among the recognized areas of dental practice. However, as a matter of principle, a specialist shall not routinely provide procedures that are beyond the scope of the specialty as defined below.

650—28.2(153) Dental public health.

28.2(1) Definition. Dental public health is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice in which the community serves as the patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

28.2(2) Requirements.

- a. Be a diplomate of the American Board of Dental Public Health; or
- b. Have successfully completed a formal graduate or residency training program in dental public health accredited by the Commission on Dental Accreditation of the American Dental Association; or
- c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.3(153) Endodontics.

28.3(1) Definition. Endodontics is the branch of dentistry which is concerned with the morphology, physiology and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

28.3(2) Requirements.

- a. Be a diplomate of the American Board of Endodontics; or
- b. Have successfully completed a formal graduate or residency training program in endodontics accredited by the Commission on Dental Accreditation of the American Dental Association; or
- c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.4(153) Oral and maxillofacial pathology.

28.4(1) Definition. Oral and maxillofacial pathology is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of oral and maxillofacial pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations.

28.4(2) Requirements.

- a. Be a diplomate of the American Board of Oral and Maxillofacial Pathology; or
- b. Be a fellow in the American Academy of Oral and Maxillofacial Pathology; or
- c. Have successfully completed a formal graduate or residency training program in oral and maxillofacial pathology accredited by the Commission on Dental Accreditation of the American Dental Association; or
- d. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.5(153) Oral and maxillofacial surgery.

28.5(1) Definition. Oral and maxillofacial surgery is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

28.5(2) Requirements.

- a. Be a diplomate of the American Board of Oral and Maxillofacial Surgery; or
- b. Be a member of the American Association of Oral and Maxillofacial Surgeons; or
- c. Have successfully completed a formal graduate or residency training program in oral surgery accredited by the Commission on Dental Accreditation of the American Dental Association; or
- d. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.6(153) Orthodontics and dentofacial orthopedics.

28.6(1) Definition. Orthodontics and dentofacial orthopedics is that area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces or the stimulation and redirection of functional forces within the craniofacial complex, or both. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structures.

28.6(2) Requirements.

- a. Be a diplomate of the American Board of Orthodontics; or
- b. Have successfully completed a formal graduate or residency training program in orthodontics accredited by the Commission on Dental Accreditation of the American Dental Association; or
- c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.7(153) Pediatric dentistry.

28.7(1) Definition. The specialty of pediatric dentistry is the practice and teaching of comprehensive preventive and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical or emotional problems.

28.7(2) Requirements.

- a. Be a diplomate of the American Board of Pediatric Dentistry; or
- b. Have successfully completed a formal graduate or residency training program in pediatric dentistry accredited by the Commission on Dental Accreditation of the American Dental Association; or
- c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.8(153) Periodontics.

28.8(1) Definition. Periodontics is that specialty of dentistry which encompasses the prevention, diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes; and the maintenance of the health, function, and esthetics of these structures and tissues.

28.8(2) Requirements.

- a. Be a diplomate of the American Board of Periodontology; or
- b. Have successfully completed a formal graduate or residency training program in periodontics accredited by the Commission on Dental Accreditation of the American Dental Association; or
- c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.9(153) Prosthodontics.

28.9(1) Definition. Prosthodontics is the dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth or maxillofacial tissues using biocompatible substitutes.

28.9(2) Requirements.

- a. Have fulfilled those requirements prescribed by the American Board of Prosthodontics to be eligible to be examined therein for certification; or
- b. Have successfully completed a formal graduate or residency training program in prosthodontics accredited by the Commission on Dental Accreditation of the American Dental Association; or
- c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.10(153) Oral and maxillofacial radiology.

28.10(1) Definition. Oral and maxillofacial radiology is the specialty of dentistry and discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders, and conditions of the oral and maxillofacial region.

28.10(2) Requirements.

- a. Be a diplomate of the American Board of Oral and Maxillofacial Radiology; or
- b. Have successfully completed a formal graduate or residency training program in oral and maxillofacial radiology accredited by the Commission on Dental Accreditation of the American Dental Association.

These rules are intended to implement Iowa Code section 153.13.

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CHAPTER 29
DEEP SEDATION/GENERAL ANESTHESIA, CONSCIOUS SEDATION
AND NITROUS OXIDE INHALATION ANALGESIA

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—29.1(153) Definitions. For the purpose of these rules relative to the administration of deep sedation/general anesthesia, conscious sedation, and nitrous oxide inhalation analgesia by licensed dentists the following definitions shall apply:

“*Antianxiety premedication*” is the prescription/administration of pharmacologic substances for the relief of anxiety and apprehension which does not result in a depressed level of consciousness.

“*Conscious sedation*” is a depressed level of consciousness produced by the administration of pharmacologic substances, that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

“*Deep sedation/general anesthesia*” is a controlled state of unconsciousness, produced by a pharmacologic agent, accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command.

“*Monitoring nitrous oxide inhalation analgesia*” means continually observing the patient receiving nitrous oxide and recognizing and notifying the dentist of any adverse reactions or complications.

“*Nitrous oxide inhalation analgesia*” refers to the administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

650—29.2(153) Prohibitions.

29.2(1) *Deep sedation/general anesthesia.* Dentists licensed in this state shall not administer deep sedation/general anesthesia in the practice of dentistry until they have obtained a permit as required by the provisions of this chapter.

29.2(2) *Conscious sedation.* Dentists licensed in this state shall not administer conscious sedation in the practice of dentistry until they have obtained a permit as required by the provisions of this chapter.

29.2(3) *Nitrous oxide inhalation analgesia.* Dentists licensed in this state shall not administer nitrous oxide inhalation analgesia in the practice of dentistry until they have complied with the provisions of 29.6(153).

29.2(4) *Antianxiety premedication.* Dentists licensed in this state shall not administer antianxiety premedication in the practice of dentistry until they have complied with the provisions of 29.7(153).

650—29.3(153) Requirements for the issuance of deep sedation/general anesthesia permits.

29.3(1) A permit may be issued to a licensed dentist to use deep sedation/general anesthesia on an outpatient basis for dental patients provided the dentist meets the following requirements:

a. Has successfully completed Part II of the American Dental Association Council on Dental Education Guidelines; and

b. Has formal training in airway management; and

c. Has completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program approved by the board.

29.3(2) A dentist using deep sedation/general anesthesia shall maintain a properly equipped facility. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: anesthesia or analgesia machine, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. A licensee may submit a request to the board for an exemption from any of the provisions of this subrule. Exemption requests will be

considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the exemption.

29.3(3) The dentist shall ensure that each facility where sedation services are provided is staffed with trained auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident to the administration of general anesthesia. Auxiliary personnel shall maintain current certification in basic life support and be capable of administering basic life support.

29.3(4) A dentist administering deep sedation/general anesthesia must document and maintain current, successful completion of an Advanced Cardiac Life Support (ACLS) course.

29.3(5) A dentist who is performing a procedure for which deep sedation/general anesthesia was induced shall not administer the general anesthetic and monitor the patient without the presence and assistance of at least two qualified auxiliary personnel in the room who are qualified under subrule 29.3(3).

29.3(6) A dentist qualified to administer deep sedation/general anesthesia under this rule may administer conscious sedation and nitrous oxide inhalation analgesia provided the dentist meets the requirements of 29.6(153).

29.3(7) A licensed dentist who has been utilizing deep sedation/general anesthesia in a competent manner for the five-year period preceding July 9, 1986, but has not had the benefit of formal training as outlined in this rule, may apply for a permit provided the dentist fulfills the provisions set forth in 29.3(2), 29.3(3), 29.3(4), and 29.3(5).

650—29.4(153) Requirements for the issuance of conscious sedation permits.

29.4(1) A permit may be issued to a licensed dentist to use conscious sedation on an outpatient basis for dental patients provided the dentist meets the following requirements:

- a. Has successfully completed a training program approved by the board that meets Parts I and III of the American Dental Association Council on Dental Education Guidelines; and
- b. Has formal training in airway management; or
- c. Has submitted evidence of successful completion of conscious sedation experience at the graduate level, which is approved by the board.

29.4(2) A dentist utilizing conscious sedation shall maintain a properly equipped facility. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: anesthesia or analgesia machine, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. A licensee may submit a request to the board for an exemption from any of the provisions of this subrule. Exemption requests will be considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the exemption.

29.4(3) The dentist shall ensure that each facility where sedation services are provided is staffed with trained auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident to the administration of general anesthesia. Auxiliary personnel shall maintain current certification in basic life support and be capable of administering basic life support.

29.4(4) A dentist administering conscious sedation must document and maintain current, successful completion of an Advanced Cardiac Life Support (ACLS) course.

29.4(5) A dentist who is performing a procedure for which conscious sedation is being employed shall not administer the pharmacologic agents and monitor the patient without the presence and assistance of at least one qualified auxiliary personnel in the room who is qualified under subrule 29.4(3).

29.4(6) A licensed dentist who has been utilizing conscious sedation on an outpatient basis in a competent manner for five years preceding July 9, 1986, but has not had the benefit of formal training as outlined in this rule, may apply for a permit provided the dentist fulfills the provisions set forth in subrules 29.4(2), 29.4(3), 29.4(4) and 29.4(5).

29.4(7) Dentists qualified to administer conscious sedation may administer nitrous oxide inhalation analgesia provided they meet the requirement of 29.6(153).

29.4(8) If conscious sedation results in a general anesthetic state, the rules for deep sedation/general anesthesia apply.

650—29.5(153) Permit holders.

29.5(1) No dentist shall use or permit the use of deep sedation/general anesthesia or conscious sedation in a dental office for dental patients, unless the dentist possesses a current permit issued by the Iowa board of dental examiners. A dentist holding a permit shall be subject to review and facility inspection as deemed appropriate by the board.

29.5(2) An application for a deep sedation/general anesthesia permit must include the appropriate fee as specified in 650—Chapter 15, as well as evidence indicating compliance with rule 29.3(153).

29.5(3) An application for a conscious sedation permit must include the appropriate fee as specified in 650—Chapter 15, as well as evidence indicating compliance with rule 29.4(153).

29.5(4) If an applicant will be practicing at a facility that has been previously inspected and approved by the board, a provisional permit may be granted to the applicant upon the recommendation of the anesthesia credentials committee after review of the applicant's credentials.

29.5(5) Permits shall be renewed biennially at the time of license renewal following submission of proper application and may involve board reevaluation of credentials, facilities, equipment, personnel, and procedures of a previously qualified dentist to determine if the dentist is still qualified. The appropriate fee for renewal as specified in 650—Chapter 15 of these rules must accompany the application.

29.5(6) Upon the recommendation of the anesthesia credentials committee that is based on the evaluation of credentials, facilities, equipment, personnel and procedures of a dentist, the board may determine that restrictions may be placed on a permit.

29.5(7) The actual costs associated with the on-site evaluation of the facility shall be the primary responsibility of the licensee. The cost to the licensee shall not exceed \$500 per facility.

29.5(8) Permit holders shall follow the American Dental Association's guidelines for the use of conscious sedation, deep sedation and general anesthesia for dentists.

650—29.6(153) Nitrous oxide inhalation analgesia.

29.6(1) A dentist may use nitrous oxide inhalation analgesia sedation on an outpatient basis for dental patients provided the dentist:

- a.* Has completed a board approved course of training; or
- b.* Has training equivalent to that required in 29.6(1) "a" while a student in an accredited school of dentistry, and
- c.* Has adequate equipment with fail-safe features and minimum oxygen flow which meets FDA standards.
- d.* Has routine inspection, calibration, and maintenance on equipment performed every two years and maintains documentation of such, and provides documentation to the board upon request.

29.6(2) A dentist utilizing nitrous oxide inhalation analgesia shall be trained and capable of administering basic life support, as demonstrated by current certification in a nationally recognized course in cardiopulmonary resuscitation.

29.6(3) A licensed dentist who has been utilizing nitrous oxide inhalation analgesia in a dental office in a competent manner for the 12-month period preceding July 9, 1986, but has not had the benefit of formal training outlined in paragraph 29.6(1) "a" or 29.6(1) "b," may continue the use provided the dentist fulfills the requirements of paragraphs 29.6(1) "c" and "d" and subrule 29.6(2).

29.6(4) A dental hygienist may administer nitrous oxide inhalation analgesia provided the administration of nitrous oxide inhalation analgesia has been delegated by a dentist and the hygienist meets the following qualifications:

- a.* Has completed a board-approved course of training; or
- b.* Has training equivalent to that required in 29.6(4) "a" while a student in an accredited school of dental hygiene.

29.6(5) A dental hygienist or registered dental assistant may monitor a patient under nitrous oxide inhalation analgesia provided all of the following requirements are met:

- a. The hygienist or registered dental assistant has completed a board-approved course of training or has received equivalent training while a student in an accredited school of dental hygiene or dental assisting;
- b. The task has been delegated by a dentist and is performed under the direct supervision of a dentist;
- c. Any adverse reactions are reported to the supervising dentist immediately; and
- d. The dentist dismisses the patient following completion of the procedure.

29.6(6) A dentist who delegates the administration of nitrous oxide inhalation analgesia in accordance with 29.6(4) shall provide direct supervision and establish a written office protocol for taking vital signs, adjusting anesthetic concentrations, and addressing emergency situations that may arise.

29.6(7) If the dentist intends to achieve a state of conscious sedation from the administration of nitrous oxide inhalation analgesia, the rules for conscious sedation apply.

650—29.7(153) Antianxiety premedication.

29.7(1) Antianxiety premedication is the prescription or administration of pharmacologic substances for the relief of anxiety and apprehension.

29.7(2) The regulation and monitoring of this modality of treatment are the responsibility of the ordering dentist.

29.7(3) If a dentist intends to achieve a state of conscious sedation from the administration of an antianxiety premedication, the rules for conscious sedation shall apply.

29.7(4) A dentist utilizing antianxiety premedication and auxiliary personnel shall be trained in and capable of administering basic life support.

650—29.8(153) Noncompliance. Violations of the provisions of this chapter may result in revocation or suspension of the dentist's permit or other disciplinary measures as deemed appropriate by the board.

650—29.9(153) Reporting of adverse occurrences related to deep sedation/general anesthesia, conscious sedation, nitrous oxide inhalation analgesia, and antianxiety premedication.

29.9(1) Reporting. All licensed dentists in the practice of dentistry in this state must submit a report within a period of 30 days to the board of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, antianxiety premedication, nitrous oxide inhalation analgesia, conscious sedation or deep sedation/general anesthesia related thereto. The report shall include responses to at least the following:

- a. Description of dental procedure.
- b. Description of preoperative physical condition of patient.
- c. List of drugs and dosage administered.
- d. Description, in detail, of techniques utilized in administering the drugs utilized.
- e. Description of adverse occurrence:
 1. Description, in detail, of symptoms of any complications, to include but not be limited to onset, and type of symptoms in patient.
 2. Treatment instituted on the patient.
 3. Response of the patient to the treatment.
- f. Description of the patient's condition on termination of any procedures undertaken.

29.9(2) Failure to report. Failure to comply with subrule 29.9(1), when the occurrence is related to the use of deep sedation/general anesthesia, conscious sedation, nitrous oxide inhalation analgesia, or antianxiety premedication, may result in the dentist's loss of authorization to administer deep sedation/general anesthesia, conscious sedation, nitrous oxide inhalation analgesia, or antianxiety premedication or in other sanctions provided by law.

650—29.10(153) Anesthesia credentials committee.

29.10(1) The anesthesia credentials committee is a peer review committee appointed by the board to assist the board in the administration of this chapter. This committee shall be chaired by a member of the board and shall include at least six additional members who are licensed to practice dentistry in Iowa. At least four members of the committee shall hold deep sedation/general anesthesia or conscious sedation permits issued under this chapter.

29.10(2) The anesthesia credentials committee shall perform the following duties at the request of the board:

- a.* Review all permit applications and make recommendations to the board regarding those applications.
- b.* Conduct site visits at facilities under subrule 29.5(1) and report the results of those site visits to the board. The anesthesia credentials committee may submit recommendations to the board regarding the appropriate nature and frequency of site visits.
- c.* Perform professional evaluations and report the results of those evaluations to the board.
- d.* Other duties as delegated by the board or board chairperson.

650—29.11(153) Renewal. A permit to administer deep sedation/general anesthesia or conscious sedation shall be renewed biennially at the time of license renewal. Prior to July 1, 2008, permits expired on June 30 of every even-numbered year. A permit due to expire June 30, 2008, shall be automatically extended until August 30, 2008, and expire August 31, 2008. Beginning July 1, 2008, permits expire August 31 of every even-numbered year.

29.11(1) To renew a permit, a licensee must submit the following:

- a.* Evidence of renewal of ACLS certification.
- b.* A minimum of six hours of continuing education in the area of sedation. These hours may also be submitted as part of license renewal requirements.
- c.* The appropriate fee for renewal as specified in 650—Chapter 15.

29.11(2) Failure to renew the permit prior to November 1 following its expiration shall cause the permit to lapse and become invalid for practice.

29.11(3) A permit that has been lapsed may be reinstated upon submission of a new application for a permit in compliance with rule 29.5(153) and payment of the application fee as specified in 650—Chapter 15.

650—29.12(153) Rules for denial or nonrenewal. A dentist who has been denied a deep sedation/general anesthesia or conscious sedation permit or renewal may appeal the denial and request a hearing on the issues related to the permit or renewal denial by serving a notice of appeal and request for hearing upon the executive director not more than 30 days following the date of the mailing of the notification of the permit or renewal denial, or not more than 30 days following the date upon which the dentist was served notice if notification was made in the manner of service of an original notice. The hearing shall be considered a contested case proceeding and shall be governed by the procedures set forth in 650 IAC 51.

650—29.13(153) Record keeping. The patient chart must include preoperative and postoperative vital signs, drugs administered, dosage administered, anesthesia time in minutes, and monitors used. Intermittent vital signs shall be taken and recorded in patient chart during procedures and until the patient is fully ambulatory. The chart should contain the name of the person to whom the patient was discharged.

These rules are intended to implement Iowa Code sections 153.33 and 153.34.

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◊ Two or more ARCs

¹ Effective date of 29.6(4) to 29.6(6) delayed 70 days by the Administrative Rules Review Committee at its meeting held June 9, 1998.

² Effective date of 29.6(4) to 29.6(6) delayed until the end of the 2000 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held September 15, 1999. Subrules 29.6(4) and 29.6(5) were rescinded IAB 2/9/00, effective 3/15/00; delay on subrule 29.6(6) lifted by the Administrative Rules Review Committee at its meeting held January 4, 2000, effective January 5, 2000.

TITLE VI
PROFESSIONAL REGULATIONCHAPTER 30
DISCIPLINE

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—30.1(153) General. The board has authority to impose discipline for any violation of Iowa Code title IV, chapter 272C, or the rules promulgated thereunder.

650—30.2(153) Methods of discipline. The board has authority to impose one or more of the following disciplinary sanctions:

1. Revocation of license or registration.
2. Suspension of license or registration until further order of the board or for a specified period.
3. Nonrenewal of license or registration.
4. Prohibit permanently, until further order of the board or for a specified period, the engaging in specified procedures, methods or acts.
5. Probation.
6. Require additional education or training.
7. Require clinical or written examination.
8. Order a physical, mental, or clinical evaluation.
9. Impose civil penalties not to exceed \$10,000 where specifically provided by rules.
10. Issue citation and warning.
11. Such other sanctions allowed by law as may be appropriate.

650—30.3(153) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative seriousness of the violation as it relates to assuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating circumstances or other countervailing considerations.
4. Number of prior violations or complaints.
5. Seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee or registrant.

650—30.4(147,153,272C) Grounds for discipline. The following shall constitute grounds for the imposition by the board of one or more of the disciplinary sanctions set forth in rule 650—30.2(153) specifically including the imposition of civil penalties not to exceed \$10,000. This rule is not subject to waiver pursuant to 650—Chapter 7 or any other provision of law.

1. Fraud or deceit in procuring a resident dentist license, faculty permit, or license to practice dentistry or dental hygiene, or registration as a dental assistant, whether by examination or credentials. Fraud or deceit shall mean any false or misleading statement of a material fact or omission of information required to be disclosed.
2. Fraud or deceit in renewing a resident dentist license, faculty permit, or other license to practice dentistry or dental hygiene, or registration as a dental assistant, including but not limited to false or misleading statements concerning continuing education required for renewal.
3. Fraud in representation as to skill or ability whether by words or conduct, false or misleading allegations, or concealment of that which should have been disclosed, including but not limited to false or misleading statements contained in advertising allowed by these rules.
4. Conviction of a felony crime or conviction of a misdemeanor crime if the misdemeanor conviction relates to the practice of the profession.
5. Habitual use of drugs or intoxicants rendering unfit for practice.

6. Practicing dentistry, dental hygiene, or dental assisting while in a state of advanced physical or mental disability where such disability renders the licensee or registrant incapable of performing professional services or impairs functions of judgment necessary to the practice.
7. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient or a coworker.
8. Willful and gross malpractice.
9. Willful and gross neglect.
10. Obtaining any fee by fraud or misrepresentation.
11. Receiving or paying any fees for referral of patients.
12. Failure to pay fees required by these rules.
13. Unprofessional conduct including, but not limited to, those acts defined by Iowa Code section 153.32 or any violation of 650—Chapter 27.
14. Failure to preserve the confidentiality of patient information by using or attempting to use any patient records from the office of a current or prior employer.
15. ¹Engaging in the practice of dentistry, dental hygiene, or dental assisting in Iowa after failing to renew a license or registration to practice in Iowa within 60 days of expiration of the license or registration.
16. Failure to maintain a satisfactory standard of competency
17. Failure to maintain adequate safety and sanitary conditions for a dental office.
18. Indiscriminately or promiscuously prescribing or dispensing any drug or prescribing or dispensing any drug for other than lawful purposes.
19. Encouraging, assisting or enabling the unauthorized practice of dentistry, dental hygiene, or dental assisting in any manner.
20. Associating with a dental laboratory or technician where the dentist delegates or permits the assumption by the dental laboratory or dental laboratory technician of any service constituting the practice of dentistry or where the laboratory or technician holds itself out to the public in any way as selling, supplying, furnishing, constructing, repairing or altering prosthetic dentures, bridges, orthodontic or other appliances or devices to be used as substitutes for or as part of natural teeth or associated structures, or for correction of malocclusions or deformities.
21. Failure to prominently display the names of all persons who are practicing dentistry, dental hygiene, or dental assisting within an office.
22. Employment of or permitting an unlicensed or unregistered person to practice dentistry, dental hygiene, or dental assisting.
23. Failure to comply with the decision of the board imposing discipline.
24. Failure to report any of the following:
25. Rescinded IAB 2/6/02, effective 3/13/02. Every adverse judgment in a professional malpractice action to which the licensee or registrant was a party.
Every settlement of a claim against the licensee or registrant alleging malpractice.
Every conviction or violation of law or statute of this or another state as set forth in paragraph 30.4“4.”
26. Knowingly providing false information to the board or an agent of the board during the course of an inspection or investigation or interfering with an inspection or investigation.
27. ¹In a case that has been referred by the Iowa practitioner review committee (IPRC) to the board, violating the terms of an initial agreement with the IPRC or a recovery contract entered into with the IPRC.
28. Violating any provision of Iowa law, or being a party to or assisting in any violation of any provision of Iowa law.
29. Any willful or repeated violations of Iowa law, or being a party to or assisting in any violation of any provision of Iowa law.
30. Knowingly submitting a false continuing education reporting form or failure to meet the continuing education requirements for renewal of an active license or registration.
31. Failure to notify the board of change of address within 60 days.

32. Failure to report a license or registration revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country within 30 days of the final action by the licensing authority. A stay by an appellate court shall not negate this requirement; however, if the disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board when the board is so notified.

33. Failure to comply with a subpoena issued by the board.

34. Engaging in the practice of dentistry, dental hygiene, or dental assisting with an expired or inactive renewal.

35. ¹Failure to comply with standard precautions for preventing and controlling infectious diseases and managing personnel health and safety concerns related to infection control, as required or recommended for dentistry by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

36. Failure to comply with the recommendations of the expert review panel established pursuant to Iowa Code subsection 139C.2(3) and applicable hospital protocols established pursuant to subsection 139C.2(1)

37. Failure to comply with the infection control standards which are consistent with the standards set forth in 875—Chapters 10 and 26.

38. Failure to fully and promptly comply with office inspections conducted at the request of the board to determine compliance with sanitation and infection control standards.

39. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's or registrant's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

40. Habitual intoxication or addiction to the use of drugs.

41. Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 252J. Disciplinary proceedings initiated under this subrule shall follow the procedures set forth in Iowa Code chapter 252J and Iowa Administrative Code 650—Chapter 33.

42. Receipt of a certificate of noncompliance issued by the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127. Disciplinary proceedings initiated under this subrule shall follow the procedures set forth in Iowa Code sections 261.121 to 261.127 and Iowa Administrative Code 650—Chapter 34.

43. Practicing beyond training.

44. Delegating any acts to any licensee or registrant that are beyond the training or education of the licensee or registrant, or that are otherwise prohibited by rule.

¹ August 25, 2004, effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held August 11, 2004.

NOTE: Pursuant to Iowa Code section 17A.6(3), a sentence in 30.4“24” nullified by HJR 2006 in the 2006 Session of the Eighty-first General Assembly was removed IAC Supplement 5/24/06.

650—30.5(153) Impaired practitioner review committee. Transferred IAB 2/6/02, effective 3/13/02. See 650—Chapter 35.

These rules are intended to implement Iowa Code sections 261.121 to 261.127 and Iowa Code chapters 147, 153, 252J, 272C, and 598.

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†See HJR 2006 of 2006 Session of the Eighty-first General Assembly.

CHAPTER 31
COMPLAINTS AND INVESTIGATIONS
[Prior to 5/18/88, Dental Examiners, Board of [320]]

650—31.1(272C) Complaint review. The board shall, upon receipt of a complaint, or may upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee or registrant discipline. All complaints regarding the practice of dental hygiene will be initially directed to the dental hygiene committee. The committee shall review the complaint and make a recommendation to the board.

650—31.2(153) Form and content. A written complaint should include the following facts:

1. The full name, address, and telephone number of the complainant.
2. The full name, address, and telephone number of the licensee or registrant.
3. A statement of the facts concerning the alleged acts or omissions.

650—31.3(153) Address. The written complaint may be delivered personally, electronically or by mail to the executive director of the board. The current office address is 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

650—31.4(153) Investigation. In order for the board to determine if probable cause exists for a hearing on the complaint, the executive director or authorized designee shall cause an investigation to be made into the allegations of the complaint.

650—31.5(153) Issuance of investigatory subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), the board has the authority to issue an investigatory subpoena to compel the production of evidence deemed necessary in connection with a licensee disciplinary investigation. A subpoena issued by the board in connection with a licensee disciplinary investigation may seek evidence whether or not it is privileged or confidential under law.

31.5(1) The executive director or designee may, upon the written request of a board investigator or on the director's own initiative, subpoena books, correspondence, papers, records, and other real evidence which is necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

31.5(2) A written request for a subpoena or the director's written memorandum in support of the issuance of a subpoena shall contain the following:

- a. The name and address of the person to whom the subpoena will be directed;
- b. A specific description of the books, papers, records or other real evidence requested;
- c. An explanation of why the documents sought to be subpoenaed are necessary for the board to determine whether it should institute a contested case proceeding; and
- d. In the case of a subpoena request for mental health records, confirmation that the conditions described in 31.5(1) have been satisfied.

31.5(3) Each subpoena shall contain:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production or inspection and copying;
- d. The time within which a motion to quash or modify the subpoena must be filed;

- e. The signature, address and telephone number of the executive director or designee;
- f. The date of issuance; and
- g. A return of service attached to the subpoena.

31.5(4) Any person who is aggrieved or adversely affected by compliance with the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

31.5(5) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct a hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

31.5(6) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

31.5(7) If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either the person is notified the investigation has been concluded with no formal action, or there is a final decision in the contested case.

650—31.6(153) Board appearances. The board may request a licensee or registrant to appear before the board to discuss a pending investigation. By electing to participate in the board appearance, the licensee or registrant waives any objection to a board member's both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds of a personal investigation and a combination of investigative and adjudicative functions. If the executive director participates in the appearance, the licensee or registrant further waives any objection to having the executive director assist the board in the contested case proceeding.

650—31.7(153) Peer review. A complaint may be assigned to a peer review committee for review, investigation and report.

31.7(1) The board shall determine which peer review committee will review a case involving a dentist or dental assistant and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the board. The board may use the peer review committee system organized under the dental care programs council of the Iowa dental association, a peer review committee system organized by the Iowa dental assistants association, or a specifically constituted peer review committee designated by the board for matters involving dentists or dental assistants.

31.7(2) The dental hygiene committee shall determine which peer review committee will review a case involving a dental hygienist and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the dental hygiene committee. The dental hygiene committee may use the peer review system organized under the ethics committee of the Iowa dental hygienists' association or a specifically constituted peer review committee designated by the dental hygiene committee for matters involving dental hygienists.

31.7(3) The Iowa dental association, the Iowa dental hygienists' association and the Iowa dental assistants association shall register yearly and keep current their peer review systems with the board. Peer review committee members shall be registered with the board when appointed.

31.7(4) Members of the peer review committees shall not be liable for acts, omissions or decisions made in connection with service on the peer review committee. However, immunity from civil liability shall not apply if the act is done with malice.

650—31.8(272C) Duties of peer review committees.

31.8(1) The peer review committees shall observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

31.8(2) The board may provide investigative and related services to peer review committees.

31.8(3) A peer review committee shall thoroughly investigate a complaint as assigned and provide a written report to the board in accordance with the board's direction.

31.8(4) The peer review report shall contain a statement of facts and a recommendation as to whether a violation of the standard of care occurred. The peer review committee should consider relevant statutes, board rules, ethical standards and standards of care in making its recommendations.

31.8(5) The peer review report shall be signed by the members of the peer review committee concurring in the report.

31.8(6) Upon completion, the peer review report and all investigative information shall be submitted to the board.

650—31.9(272C) Board review. The board shall review all investigative reports and proceed pursuant to 650—Chapter 51.

650—31.10(272C) Confidentiality of investigative files. Complaint files, investigation files, all other investigation reports, and other investigative information in the possession of the board or peer review committee acting under the authority of the board or its employees or agents which relate to licensee or registrant discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee or registrant and the board, its employees and agents involved in licensee or registrant discipline, or be admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee or registrant discipline. However, a final written decision and finding of fact of the board in a disciplinary proceeding shall be public record.

650—31.11(272C) Reporting of judgments or settlements. Each licensee or registrant shall report to the board every adverse judgment in a malpractice action to which the licensee or registrant is a party and every settlement of a claim against the licensee or registrant alleging malpractice. The report together with a copy of the judgment or settlement must be filed with the board within 30 days from the date of said judgment or settlement.

650—31.12(272C) Investigation of reports of judgments and settlements. Reports received by the board from the commissioner of insurance, insurance carriers and licensees or registrants involving adverse judgments in a professional malpractice action, and settlement of claims alleging malpractice, shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of complaints.

650—31.13(272C) Mandatory reporting.

31.13(1) Definitions. For the purposes of this rule, the following definitions apply:

“Knowledge” means any information or evidence acquired from personal observation, from a reliable or authoritative source, or under circumstances that cause the licensee or registrant to believe that there exists a substantial likelihood that an act or omission may have occurred.

“Reportable act or omission” means any conduct that may constitute a basis for disciplinary action under the rules or statutory provisions governing the practice of dentistry, dental hygiene, or dental assisting in Iowa.

31.13(2) Reporting requirement. A report shall be filed with the board when a licensee or registrant has knowledge that another person licensed or registered by the board may have committed a reportable act or omission.

a. The report shall be filed with the board within 30 days from the date the licensee or registrant acquires knowledge of the reportable act or omission. However, in the event such reportable act or

omission poses an immediate threat to patient safety, the report shall be filed within 24 hours from the date the licensee or registrant acquires knowledge of the reportable act or omission.

b. The report shall contain the name and the address of the licensee or registrant who may have committed the reportable act or omission, the date, time, place and circumstances in which the reportable act or omission may have occurred, and a statement indicating how the knowledge was acquired.

c. The requirement to report takes effect when a licensee or registrant has knowledge that another licensee or registrant may have committed a reportable act or omission. The final determination of whether or not such act or omission has occurred is the responsibility of the board.

31.13(3) *Failure to report.* Failure to report knowledge of a reportable act or omission within the required time period shall constitute a basis for the initiation of a board disciplinary action against the licensee or registrant who failed to report.

650—31.14(272C) *Failure to report licensee or registrant.* Rescinded IAB 5/11/05, effective 6/15/05.

650—31.15(272C) *Immunities.* A person shall not be civilly liable as a result of filing a report or complaint with the board, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of the board. However, immunity from civil liability shall not apply if the act is done with malice.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code sections 153.33, 272C.3, and 272C.4.

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¹ Effective date of **ARC 3520B**, Items 17 and 20, delayed 70 days by the Administrative Rules Review Committee at its meeting held August 11, 2004.

CHAPTER 32
MEDIATION OF DISPUTES

650—32.1(153) Definitions.

“*Board*” means the Iowa board of dental examiners.

“*Center*” or “*mediation center*” means an approved dispute resolution center that has applied for and received approval from the executive director of the prosecuting attorneys training coordination council provided for in Iowa Code section 679.3.

“*Mediation*” means an informal dispute resolution process by which the parties involved in a dispute voluntarily agree to enter into informal discussion and negotiation with the assistance of a mediator.

650—32.2(153) Mediation authorized. The board has the authority to provide for mediation of disputes between licensees or registrants and their patients when requested by either party or recommended by the board and agreed to by the parties.

32.2(1) The board may recommend for mediation those cases that are appropriate, which could include, but are not limited to, cases involving fee disputes.

32.2(2) The board’s referral of a matter to mediation shall not preclude the board from taking disciplinary action against the affected licensee or registrant. There is no obligation that the licensee or registrant participate in mediation and the licensee or registrant shall not be subject to disciplinary action for failure to participate in a board recommended mediation.

650—32.3(153) Mediation process.

32.3(1) Subsequent to an investigation by the board, the board may recommend mediation to address a dispute between a licensee or registrant and a patient.

32.3(2) If mediation is recommended by the board, the board shall notify the licensee or registrant, the patient and a mediation center of the recommendation within 30 days.

32.3(3) Upon receipt of a mediation request from the board, the mediation center shall provide the parties with a written statement setting forth the center’s established procedures and the cost, if any, prior to each mediation session.

32.3(4) If mediation is agreed upon by the parties involved, the mediation center shall schedule a mediation at a time and place convenient and neutral to the parties and the mediator.

650—32.4(153) Assignment of mediator. The assignment of a mediator shall be made by the mediation center. At the request of either party, and upon a showing of good cause, the director of the mediation center shall review the assignment of the mediator and shall, upon a showing of good cause, remove a mediator and assign another mediator to the case. Good cause includes partiality, bias, or the existence of a personal or professional relationship with any of the parties.

650—32.5(153) Cancellation. If mediation is scheduled, either party may contact the mediation center to cancel the mediation meeting or reschedule the mediation meeting.

650—32.6(153) Mediation meetings. In addition to any duties imposed by statute or rule, each mediator shall:

32.6(1) Clarify the names of all participating parties present and facilitate agreement on the attendance of assisting parties at the mediation meeting, as well as the extent to which such persons may participate in the proceedings.

32.6(2) Ensure that the parties understand that the mediator does not legally represent any of the parties and is neutral in the proceedings.

32.6(3) Help the parties review any proposed solution to determine if it can be effectively implemented and to help the parties understand the consequences of the proposed solution.

650—32.7(153) Mediation report. The mediation center shall report to the board whether or not the parties agreed to participate in mediation and whether or not the mediation was successful. The mediation

center shall not, however, disclose the terms of the mediation to the board. The mediation center shall make such report within 15 days of the conclusion of the mediation.

650—32.8(679) Mediation agreement. If the parties involved in the dispute reach agreement, the agreement may be reduced to writing setting forth the settlement of the issues and the future responsibilities of each party.

650—32.9(679) Mediation confidential. All verbal or written information relating to the subject matter of mediation or a mediation agreement transmitted between any party to a dispute and a mediator or the staff of an approved center or any other person present during any stage of mediation, whether reflected in notes, memoranda, or other work products in the case files, is confidential communications except as otherwise expressly provided for in Iowa Code chapter 679. Mediators and center staff members shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosures of confidential communications. This rule does not apply when a mediator or center staff member has reason to believe that a party to a dispute has given perjured evidence.

650—32.10(679) Mediator immunity. No mediator, employee or agent of a center, or member of a center's board may be held liable for civil damages for any statement or decision made in the process of mediation unless the mediator, employee, agent or member acted in bad faith, with malicious purpose or in a manner exhibiting willful and wanton disregard of human rights, safety or property.

These rules are intended to implement Iowa Code section 153.33 and Iowa Code chapter 679.

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TITLES VII TO X
CHAPTER 33
CHILD SUPPORT NONCOMPLIANCE

650—33.1(252J,598) Definitions. For the purpose of this chapter the following definitions shall apply:

“*Act*” means Iowa Code sections 252J.1 to 252J.9.

“*Board*” means the Iowa board of dental examiners.

“*Certificate*” means a document known as a certificate of noncompliance which is provided by the child support unit certifying that the named licensee or registrant is not in compliance with a support order or with a written agreement for payment of support entered into by the child support unit and the licensee or registrant.

“*Child support unit*” means the child support recovery unit of the Iowa department of human services.

“*Denial notice*” means a board notification denying an application for the issuance or renewal of a license or registration as required by the Act.

“*License*” means a license to practice dentistry or dental hygiene.

“*Registration*” means registration to practice as a dental assistant trainee or registered dental assistant.

“*Revocation or suspension notice*” means a board notification suspending a license or registration for an indefinite or specified period of time or a notification revoking a license or registration as required by the Act.

“*Withdrawal certificate*” means a document known as a withdrawal of a certificate of noncompliance provided by the child support unit certifying that the certificate is withdrawn and that the board may proceed with issuance, reinstatement, or renewal of a license or registration.

650—33.2(252J,598) Issuance or renewal of a license or registration—denial. The board shall deny the issuance or renewal of a license or registration upon the receipt of a certificate from the child support unit. This rule shall apply in addition to the procedures set forth in the Act.

33.2(1) Service of denial notice. Notice shall be served upon the licensee, registrant, or applicant by certified mail, return receipt requested; by personal service; or through authorized counsel.

33.2(2) Effective date of denial. The effective date of the denial of issuance or renewal of a license or registration, as specified in the denial notice, shall be 60 days following service of the denial notice upon the licensee, registrant, or applicant.

33.2(3) Preparative and service of denial notice. The executive director of the board is authorized to prepare and serve the denial notice upon the licensee, registrant, or applicant.

33.2(4) Licensee, registrant, or applicant responsible to inform board. Licensees, registrants, and applicants shall keep the board informed of all court actions, and all child support unit actions taken under or in connection with the Act and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawal of certificates issued by the child support unit.

33.2(5) Reinstatement following license or registration denial. All board fees required for application, license or registration renewal, or license or registration reinstatement shall be paid by licensees, registrants, or applicants before a license or registration will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license or registration pursuant to the Act.

33.2(6) Effect of filing in district court. In the event a licensee, registrant, or applicant files a timely district court action following service of a board notice, the board shall continue with the intended action described in the denial notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or registration, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

33.2(7) Final notification. The board shall notify the licensee, registrant, or applicant in writing through regular first-class mail, or such other means as the board determines appropriate in the

circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license or registration, and shall similarly notify the licensee, registrant, or applicant if the license or registration is issued or renewed following the board's receipt of a withdrawal certificate.

650—33.3(252J,598) Suspension or revocation of a license or registration. The board shall suspend or revoke a license or registration upon the receipt of a certificate from the child support unit according to the procedures set forth in the Act. This rule shall apply in addition to the procedures set forth in the Act.

33.3(1) *Service of revocation or suspension notice.* Revocation or suspension notice shall be served upon the licensee or registrant by certified mail, return receipt requested; by personal service; or through authorized counsel.

33.3(2) *Effective date of revocation or suspension.* The effective date of the suspension or revocation of a license or registration, as specified in the revocation or suspension notice, shall be 60 days following service of the revocation or suspension notice upon the licensee or registrant.

33.3(3) *Preparation and service of revocation or suspension notice.* The executive director of the board is authorized to prepare and serve the revocation or suspension notice upon the licensee or registrant and is directed to notify the licensee or registrant that the license or registration will be suspended unless the license or registration is already suspended on other grounds. In the event that the license or registration is on suspension, the executive director shall notify the licensee or registrant of the board's intention to revoke the license or registration.

33.3(4) *Licensee or registrant responsible to inform board.* The licensee or registrant shall keep the board informed of all court actions, and all child support unit action taken under or in connection with the Act, and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawal certificates issued by the child support unit.

33.3(5) *Reinstatement following license or registration suspension or revocation.* A licensee or registrant shall pay all board fees required for license or registration renewal or reinstatement before a license or registration will be reinstated after the board has suspended a license or registration pursuant to the Act.

33.3(6) *Effect of filing in district court.* In the event a licensee or registrant files a timely district court action pursuant to the Act and following service of a revocation or suspension notice, the board shall continue with the intended action described in the revocation or suspension notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the suspension or revocation, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

33.3(7) *Final notification.* The board shall notify the licensee or registrant in writing through regular first-class mail, or such other means as the board determines appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a license or registration, and shall similarly notify the licensee or registrant if the license or registration is reinstated following the board's receipt of a withdrawal certificate.

These rules are intended to implement Iowa Code sections 252J.1 to 252J.9 and chapter 598.

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CHAPTER 34
STUDENT LOAN DEFAULT/NONCOMPLIANCE
WITH AGREEMENT FOR PAYMENT OF OBLIGATION

650—34.1(261) Definitions. For the purpose of this chapter, the following definitions shall apply:

“*Board*” means the board of dental examiners.

“*Certificate of noncompliance*” means written certification from the college student aid commission to the licensing authority certifying that the licensee or registrant has defaulted on an obligation owed to or collected by the commission.

“*Commission*” means the college student aid commission.

650—34.2(261) Issuance or renewal of a license or registration—denial. The board shall deny the issuance or renewal of a license or registration upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to those procedures, this rule shall apply.

34.2(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant, registrant, or licensee may accept service personally or through authorized counsel.

34.2(2) The effective date of the denial of the issuance or renewal of a license or registration, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant, registrant, or licensee.

34.2(3) The board’s executive director is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the applicant, registrant, or licensee.

34.2(4) Applicants, registrants, and licensees shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

34.2(5) All board fees required for application, license or registration renewal or license or registration reinstatement must be paid by applicants, registrants, or licensees, and all continuing education requirements must be met before a license or registration will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license or registration pursuant to Iowa Code chapter 261.

34.2(6) In the event an applicant, registrant, or licensee timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or registration, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

34.2(7) The board shall notify the applicant, registrant, or licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license or registration, and shall similarly notify the applicant, registrant, or licensee when the license or registration is issued or renewed following the board’s receipt of a withdrawal of the certificate of noncompliance.

650—34.3(261) Suspension or revocation of a license or registration. The board shall suspend or revoke a license or registration upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to those procedures, the following shall apply:

34.3(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the licensee or registrant may accept service personally or through authorized counsel.

34.3(2) The effective date of revocation or suspension of a license or registration, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the licensee or registrant.

34.3(3) The executive director is authorized to prepare and serve the notice required by Iowa Code section 261.126 and is directed to notify the licensee or registrant that the license or registration will be suspended, unless the license or registration is already suspended on other grounds. In the event a license or registration is on suspension, the executive director shall notify the licensee or registrant of the board's intention to revoke the license or registration.

34.3(4) Licensees and registrants shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

34.3(5) All board fees required for license or registration renewal or reinstatement must be paid by licensees and registrants, and all continuing education requirements must be met before a license or registration will be renewed or reinstated after the board has suspended or revoked a license or registration pursuant to Iowa Code chapter 261.

34.3(6) In the event a licensee or registrant timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or registration, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

34.3(7) The board shall notify the licensee or registrant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a license or registration, and shall similarly notify the licensee or registrant when the license or registration is reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.

These rules are intended to implement Iowa Code sections 261.121 to 261.127.

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CHAPTER 35
IOWA PRACTITIONER REVIEW COMMITTEE

650—35.1(153,272C) Iowa practitioner review committee. Pursuant to the authority of Iowa Code section 272C.3(1) “k,” the board establishes the Iowa practitioner review committee.

35.1(1) Definitions.

“*Impairment*” means an inability, or significant potential for inability, to practice dentistry, dental hygiene, or dental assisting with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any mental or physical disorder or disability. For the purposes of this program, “impairment” does not include sexual dysfunction, sexual addiction, sexual compulsivity, paraphilia, or other sexual disorder.

“*Initial agreement*” means the written document establishing the initial terms for participation in the program.

“*Iowa practitioner program contract*” or “*contract*” means the written document executed by a practitioner and the IPRC that establishes the terms for participation in the program.

“*IPP*” or “*program*” means the Iowa practitioner program.

“*IPRC*” or “*committee*” means the Iowa practitioner review committee.

“*Practitioner*” means a licensed dentist or dental hygienist or a registered dental assistant or a person applying for a license or registration.

“*Self-report*” means the practitioner providing written or oral notification to the IPRC that the practitioner has been, is or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging an impairment prior to the date of self-report. Information related to an impairment or a potential impairment that is provided on a license or registration application or renewal form may be considered a self-report upon the request of the practitioner, authorization from the license committee, and agreement by the IPRC.

35.1(2) Purpose. The IPRC evaluates, assists, and monitors the recovery, rehabilitation, or maintenance of dentists, hygienists, or assistants who self-report impairments. As necessary, the committee notifies the board in the event of noncompliance with contract provisions. The IPRC is both an advocate for the health of a practitioner and a means to protect the health and safety of the public. Reports on the activities of the IPRC shall be made to the board on a quarterly basis.

35.1(3) Composition of the committee. The chairperson of the board shall appoint the members of the IPRC. The membership of the IPRC may include, but is not limited to:

- a. Executive director of the board or the director’s designee from the board’s staff;
- b. One practitioner who has remained free of addiction for a period of no less than two years following successful completion of a board-approved recovery program, a board-ordered probation for drug or alcohol dependency, addiction, or abuse, or an IPRC contract;
- c. One physician/counselor with expertise in substance abuse/addiction treatment programs;
- d. One psychiatrist or one psychologist; and
- e. One public member.

35.1(4) Eligibility. To be eligible for participation in the IPP, a practitioner must self-report an impairment or suspected impairment directly to the office of the board. A practitioner is deemed ineligible to participate in the program if the license committee or IPRC finds sufficient evidence of any of the following:

- a. The practitioner is engaged in the unlawful diversion or distribution of controlled substances or illegal substances to a third person or for personal profit or gain;
- b. At the time of the self-report, the practitioner is already under board order for an impairment or any other violation of the laws and rules governing the practice of the profession;
- c. The practitioner has caused harm or injury to a patient;
- d. There is currently a board investigation of the practitioner that concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care;

e. The practitioner has been subject to a civil administrative or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or a foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of dentistry, dental hygiene, or dental assisting;

f. The practitioner provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the board or committee; or

g. There is currently a complaint before the board related to an impairment.

35.1(5) *Type of program.* The IPP is an individualized recovery, rehabilitation, or maintenance program designed to meet the specific needs of the impaired practitioner. The committee, in consultation with an IPRC-approved evaluator, shall determine the type of recovery, rehabilitation, or maintenance program required to treat the practitioner's impairment. The committee shall prepare a contract, to be signed by the practitioner, that shall provide a detailed description of the goals of the program, the requirements for successful participation, and the practitioner's obligations therein.

35.1(6) *Terms of participation.* A practitioner shall agree to comply with the terms for participation in the IPP established in the initial agreement and contract. Terms of participation specified in the contract shall include, but are not limited to:

a. Duration. The length of time a practitioner shall participate in the program shall be determined by the committee. Length of participation in the program will vary depending upon the recommendations provided by an approved evaluator and the determination of the IPRC following review of all relevant information.

b. Noncompliance. A practitioner participating in the program is responsible for notifying the committee of any instance of noncompliance including, but not limited to, a relapse. Notification of noncompliance made to the IPRC by the practitioner, any person responsible for providing or monitoring treatment, or another party shall result in full review by the board for the filing of formal charges or other action the board deems appropriate.

c. Practice restrictions. The IPRC may impose restrictions on the license to practice dentistry or dental hygiene or registration to practice dental assisting as a term of the initial agreement or contract until such time as it receives a report from an approved evaluator and the IPRC determines, based on all relevant information, that the practitioner is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a practitioner is required to agree to restrict practice in accordance with the terms specified in the initial agreement or contract. In the event that the practitioner refuses to agree to or comply with the restrictions established in the initial agreement or contract, the committee shall refer the practitioner to the board for appropriate action.

d. Monitoring costs. A provision for payment of the actual costs or a \$100 quarterly fee to cover the board's expenses associated with monitoring a practitioner's compliance with the terms of the IPRC initial agreement or contract may be included in the initial agreement and contract. Actual costs include mileage, meals, travel expenses, hourly investigative time, and all incidental expenses associated with monitoring compliance. Monitoring costs shall be considered repayment receipts as defined in Iowa Code section 8.2.

35.1(7) *Limitations.* The IPRC establishes the terms and monitors a participant's compliance with the program specified in the initial agreement and contract. The IPRC is not responsible for participants who fail to comply with the terms of or successfully complete the IPP. Participation in the program under the auspices of the IPRC shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of dentistry, dental hygiene, or dental assisting by a participant shall be referred to the board for appropriate action.

35.1(8) *Confidentiality.* Information in the possession of the board or the committee shall be subject to the confidentiality requirements of Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about practitioners in the program shall not be disclosed to the public. Participation in the IPP under the auspices of the IPRC is not a matter of public record. Information about participants may only be shared in the following circumstances:

a. Upon authorization or prior to successful completion of a contract, the IPRC may communicate information about an IPP participant to dental regulatory authorities or the impaired practitioner program of any jurisdiction of the United States in which the participant is currently licensed to practice dentistry, dental hygiene, or dental assisting, or in which the practitioner is seeking licensure.

b. The IPRC may communicate information about an IPP participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance.

c. The IPRC may communicate information about an IPP participant to the board in the event that a participant does not comply with the terms of the initial agreement or contract. The IPRC may provide the board with a participant's IPRC file in the event that the participant does not comply with the terms of the initial agreement or contract and the IPRC refers the case to the board for appropriate action.

d. The IPRC shall report to the board any knowledge of violations of administrative rules or statutes unrelated to the impairment.

e. If the board initiates disciplinary action against a practitioner for noncompliance with the terms of the contract, the board may include information about the practitioner's participation in the IPP in the statement of charges, settlement agreement and final order, or order following hearing.

650—35.2(272C) Board referrals to the Iowa practitioner review committee.

35.2(1) *Eligibility for board referral to IPRC.* The board may refer a practitioner who is the subject of a board order to the IPRC for monitoring in the following circumstances:

a. The practitioner has an impairment as defined in rule 650—35.1(272C).

b. The board determines that the practitioner is an appropriate candidate for participation in the IPRC.

c. The IPRC determines that the practitioner is an appropriate candidate for participation in the IPRC.

35.2(2) *Referral process.*

a. Determination of whether a practitioner is appropriate for referral to the IPRC is in the sole discretion of the board. Upon the board's approval, a referral shall be made to the IPRC and the committee shall be provided with relevant information about the practitioner.

b. The IPRC shall make a determination whether the practitioner is an appropriate candidate for participation in the program. Upon this determination, the IPRC shall offer the referred practitioner a contract that specifies terms of participation in the program. See 650—35.1(272C).

c. If the IPRC finds that the practitioner is not an appropriate candidate for participation in the IPP or if the practitioner fails to sign the contract in the time period specified by the IPRC, the IPRC shall notify the board promptly.

d. When the practitioner signs the contract, the IPRC shall notify the board that the referral has been finalized. The practitioner's failure to sign a contract within the time period specified by the IPRC may be grounds for disciplinary action.

e. Referral of a practitioner by the board to the IPP shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. Upon referral, the practitioner shall be subject to the provisions of 650—Chapter 35. Specifically, the practitioner shall be subject to board review and potential formal disciplinary action for noncompliance with the provisions of the IPP contract.

These rules are intended to implement Iowa Code section 272C.3(1) "k."

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CHAPTERS 36 to 50
Reserved

CHAPTER 51
CONTESTED CASES

[Ch 6 renumbered as Ch 51, IAC 9/20/78]
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—51.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the board of dental examiners.

650—51.2(17A) Definitions. Except where otherwise specifically defined by law:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Party*” means the state or the respondent.

“*Presiding officer*” means the board of dental examiners or a panel of the board. In a disciplinary contested case proceeding, the board may request that an administrative law judge make initial rulings on prehearing matters, and assist and advise the board in presiding at the disciplinary contested case hearing.

“*Proposed decision*” means the hearing panel’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full board did not preside.

650—51.3(17A) Probable cause. In the event the board finds there is probable cause for taking disciplinary action against a licensee following investigation of a complaint, the board shall order a contested case hearing be commenced by the filing of a statement of charges and notice of hearing.

650—51.4(17A) Legal review. Every statement of charges and notice of hearing prepared by the board shall be reviewed by the office of the attorney general before they are filed.

650—51.5(17A) Time requirements.

51.5(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

51.5(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

650—51.6(17A) Statement of charges and notice of hearing.

51.6(1) Delivery. Delivery of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Restricted certified mail, return receipt requested; or
- c. Publication, as provided in the Iowa Rules of Civil Procedure.

51.6(2) Contents. The statement of charges and notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted. This statement shall contain sufficient detail to give the respondent fair notice of the allegations so the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;
- e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the board or the state and of parties’ counsel where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Reference to the procedural rules governing informal settlement;

- h.* Identification of the board as the presiding officer; and
- i.* Notification of the time period in which a party may request pursuant to 1998 Iowa Acts, chapter 1202, section 15(1), and rule 51.9(17A) that the presiding officer be an administrative law judge.

650—51.7(17A) Legal representation. Following the filing of the statement of charges and notice of hearing, the office of the attorney general shall be responsible for the legal representation of the public interest in all proceedings before the board.

650—51.8(17A) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case shall be the board or a panel of the board. However, the board may request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 51.25(17A). In addition, an administrative law judge may assist and advise the board in presiding at the contested case hearing.

650—51.9(17A) Presiding officer in a nondisciplinary contested case.

51.9(1) Any party in a nondisciplinary contested case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the board.

51.9(2) The board may deny the request only upon a finding that one or more of the following apply:

- a.* There is compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- b.* An administrative law judge with the qualifications identified in subrule 51.9(4) is unavailable to hear the case within a reasonable time.
- c.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- d.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- e.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- f.* The request was not timely filed.
- g.* The request is not consistent with a specified statute.

51.9(3) The board shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 51.9(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

51.9(4) An administrative law judge assigned to act as presiding officer in a nondisciplinary contested case shall have a J.D. degree unless waived by the board.

51.9(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies. Such appeals must be filed within 10 days of the date of the issuance of the challenged ruling, but no later than the time for compliance with the order or the date of hearing, whichever is first.

650—51.10(17A) Disqualification.

51.10(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a.* Has a personal bias or prejudice concerning a party or a representative of a party;
- b.* Has personally investigated, prosecuted or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship that (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

51.10(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include:

a. General direction and supervision of assigned investigators;

b. Unsolicited receipt of information which is relayed to assigned investigators;

c. Review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or

d. Exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202, section 19, and subrules 51.10(3) and 51.23(9).

51.10(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

51.10(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 51.10(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board shall determine the matter as part of the record in this case.

650—51.11(17A) Consolidation—severance.

51.11(1) Consolidation. The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

a. The matters at issue involve common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues involved; and

c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

51.11(2) Severance. The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

650—51.12(17A) Pleadings.

51.12(1) Pleadings. Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

51.12(2) Answer. An answer shall be filed within 20 days of service of the statement of charges and notice of hearing.

a. An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the statement of charges. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

b. An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

c. Any allegation in the statement of charges not denied in the answer is considered admitted.

51.12(3) Amendment. Amendments to the statement of charges and to an answer may be allowed with the consent of the parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

650—51.13(17A) Service and filing.

51.13(1) Service—when required. Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as prosecutor for the state or the board, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

51.13(2) Service—how made. Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

51.13(3) Filing—when required. After the notice of hearing, all documents in a contested case proceeding shall be filed with the board. All documents that are required to be served upon a party shall be filed simultaneously with the board.

51.13(4) Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

51.13(5) Proof of mailing. Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

650—51.14(17A) Discovery.

51.14(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

51.14(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 51.14(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

650—51.15(17A,272C) Issuance of subpoenas in a contested case. Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), the board has the authority to issue subpoenas to compel the attendance of witnesses at depositions or hearing and to compel the production of evidence deemed necessary in connection with a contested case. A subpoena issued by the board in a contested case may seek evidence whether or not it is privileged or confidential under law.

51.15(1) The executive director or designee may, upon the written request of the licensee or the state, issue a subpoena to compel the attendance of witnesses at depositions or hearing, and to compel the production of books, correspondence, papers, records, and other real evidence deemed necessary in connection with a contested case. A subpoena to produce evidence or to permit inspection may be joined with a subpoena to testify at a deposition or hearing, or may be issued separately. A request for a subpoena of mental health records must confirm that the conditions described in 650—subrule 31.5(1) have been satisfied prior to the issuance of the subpoena.

51.15(2) A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

- a.* The name, address and telephone number of the person requesting the subpoena;
- b.* The name and address of the person to whom the subpoena shall be directed;
- c.* The date, time, and location at which the person shall be commanded to attend and give testimony;
- d.* Whether the testimony is requested in connection with a deposition or hearing;
- e.* A description of the books, papers, records or other real evidence requested;
- f.* The date, time and location for production, or inspection and copying; and
- g.* In the case of a subpoena request for mental health records, confirmation that the conditions described in 650—subrule 31.5(1) have been satisfied.

51.15(3) Each subpoena shall contain, as applicable:

- a.* The caption of the case;
- b.* The name, address and telephone number of the person who requested the subpoena;
- c.* The name and address of the person to whom the subpoena is directed;
- d.* The date, time, and location at which the person is commanded to appear;
- e.* Whether the testimony is commanded in connection with a deposition or hearing;
- f.* A description of the books, papers, records or other real evidence the person is commanded to produce;
- g.* The date, time and location for production, or inspection and copying;
- h.* The time within which a motion to quash or modify the subpoena must be filed;
- i.* The signature, address and telephone number of the executive director or designee;
- j.* The date of issuance;
- k.* A return of service which shall be attached to the subpoena.

51.15(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the executive director or designee shall mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

51.15(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

51.15(6) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct the hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

51.15(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board's executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

51.15(8) If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person

under investigation, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

650—51.16(17A) Motions.

51.16(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

51.16(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

51.16(3) The presiding officer may schedule oral argument on any motion.

51.16(4) Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

650—51.17(17A) Prehearing conference.

51.17(1) Any party may request a prehearing conference. Prehearing conferences shall be conducted by the executive director, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the executive director's own motion shall be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date.

51.17(2) The parties at a prehearing conference shall be prepared to discuss the following subjects, and the executive director or administrative law judge may issue appropriate orders concerning:

- a. The possibility of settlement.
- b. The entry of a scheduling order to include deadlines for completion of discovery.
- c. Stipulations of law or fact.
- d. Stipulations on the admissibility of exhibits.
- e. Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the hearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.
- f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Exhibits, other than rebuttal exhibits, that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.
- g. Stipulations for waiver of any provision of law.
- h. Identification of matters which the parties intend to request be officially noticed.
- i. Consideration of any additional matters which will expedite the hearing.

51.17(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

650—51.18(17A) Continuances. Unless otherwise provided, applications for continuances shall be filed with the board. In the event the application for continuance is not contested, the executive director shall serve as presiding officer and issue the appropriate order. In the event the application for continuance is contested, the matter shall be heard by the board as presiding officer or may be delegated by the board to an administrative law judge.

51.18(1) A written application for a continuance shall:

- a. Be made at the earliest possible time and no less than five working days before the hearing except in case of unanticipated emergencies;
- b. State the specific reasons for the request; and
- c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within two days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible.

51.18(2) In determining whether to grant a continuance, the presiding officer may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The public interest;
- d.* The likelihood of informal settlement;
- e.* The existence of an emergency;
- f.* Any objection;
- g.* Any applicable time requirements;
- h.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- i.* The timeliness of the request; and
- j.* Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

650—51.19(17A) Settlements.

51.19(1) A contested case may be resolved by informal settlement. Settlement negotiations may be initiated at any stage of a contested case by the executive director, prosecuting attorney, the respondent, the board or its designee. Neither the board nor the respondent is required to participate in the informal settlement process. The executive director and chairperson of the board, or the chairperson's designee(s), shall have authority to negotiate on behalf of the board.

51.19(2) The full board shall not be involved in negotiation until a written proposed settlement is submitted to the full board for approval, unless both parties waive this prohibition.

51.19(3) Consent to negotiation by the respondent during informal settlement negotiation constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202. Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board chairperson or designee(s).

51.19(4) Negotiations for a proposed settlement shall be completed at least ten days prior to the hearing date set by the order for hearing. However, after consultation with the board chairperson or designee, the executive director shall have the power to grant additional time for continued negotiations in instances where additional time will likely lead to a satisfactory settlement prior to the hearing date.

51.19(5) No proposed settlement shall be presented to the board for approval until it is in final, written form signed by the respondent.

51.19(6) All proposed settlements are subject to approval of a majority of the full board. If the board fails to approve a proposed settlement, it shall be of no force or effect to either party. The proposed settlement shall be binding if approved by the board and signed by both the chairperson or the chairperson's designee and the respondent.

51.19(7) A board member who participates in the negotiation of a proposed settlement is not disqualified from participating in the adjudication of the contested case.

51.19(8) Consent to settlement negotiations by the respondent constitutes a waiver of any objection to the participation in the adjudication of the contested case of any board member who participated in the review of a settlement agreement which was not approved by the board.

51.19(9) A provision for payment of the actual costs or a \$100 quarterly fee to cover the board's expenses associated with monitoring a licensee's or registrant's compliance with the settlement agreement may be included in the settlement agreement. Actual costs include mileage, meals, travel expenses, hourly investigative time, and all incidental expenses associated with monitoring compliance. Monitoring costs shall be considered repayment receipts as defined in Iowa Code section 8.2.

650—51.20(17A) Hearing procedures.

51.20(1) A hearing may be conducted before the board or a panel of not less than three members of the board at least two of whom are licensed by the board.

51.20(2) Hearings by the dental hygiene committee. In the event the licensee who is the subject of the contested case is a dental hygienist, the hearing shall be held before the dental hygiene committee, which shall constitute a panel of the board. The dental hygiene committee may in its discretion recommend to the board that the hearing be held instead before a panel of the board or full board.

51.20(3) When, in the opinion of a majority of the board, it is desirable to obtain specialists within an area of practice when holding disciplinary hearings, the board may appoint a panel of three specialists who are not board members to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

51.20(4) The presiding officer shall have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The presiding officer may request that an administrative law judge perform any of these functions, and may be assisted and advised by an administrative law judge.

51.20(5) All objections shall be timely made and stated on the record.

51.20(6) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at their own expense.

51.20(7) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

51.20(8) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

51.20(9) Witnesses may be sequestered during the hearing.

51.20(10) The presiding officer shall have authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

51.20(11) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

51.20(12) The board members and administrative law judge have the right to question a witness. Examination of witnesses by board members is subject to properly raised objections.

51.20(13) The hearing shall be open to the public unless the licensee requests that the hearing be closed.

650—51.21(17A) Evidence.

51.21(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

51.21(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

51.21(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual

notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

51.21(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

51.21(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

51.21(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

650—51.22(17A) Default.

51.22(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

51.22(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

51.22(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 51.26(17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

51.22(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

51.22(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

51.22(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 236.

51.22(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 51.25(17A).

51.22(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

51.22(9) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effective immediately, subject to a request for stay under rule 51.28(17A).

650—51.23(17A) Ex parte communication.

51.23(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 51.10(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

51.23(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending before the board.

51.23(3) Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

51.23(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 51.13(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

51.23(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

51.23(6) The executive director may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating under rule 51.10(17A).

51.23(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 51.18(17A).

51.23(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order.

If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

51.23(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

51.23(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, suspension or revocation of the privilege to practice before the board. Violation of ex parte

communication prohibitions by board personnel shall be reported to the board and its executive director for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

650—51.24(17A) Recording costs. Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

650—51.25(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the executive director, administrative law judge, or hearing panel. In determining whether to do so, the board shall consider:

1. The extent to which its granting the interlocutory appeal would expedite final resolution of the case; and
2. The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

650—51.26(17A) Proposed and final decision.

51.26(1) When a quorum of the board presides over the reception of the evidence at the hearing, the decision is a final decision.

51.26(2) When a panel of three specialists presides over the hearing, the panel shall issue a proposed decision which shall include proposed findings of fact but shall not include conclusions of law. A proposed decision of a hearing panel of specialists, together with a transcript of the proceedings and exhibits presented, shall be reviewed by the board within 30 days of the date the proposed decision was issued. The parties shall have the opportunity to submit briefs and arguments to the board. The decision of the board is a final decision.

51.26(3) When a panel of three board members or the dental hygiene committee presides over the hearing, the panel shall issue a proposed decision which shall include proposed findings of fact, conclusions of law, and order. A proposed decision, together with a transcript of the proceedings and the exhibits presented, shall be reviewed by the board within 30 days of the date the proposed decision was issued. A proposed decision of a board hearing panel becomes a final decision without further proceedings unless appealed in accordance with the following provisions:

- a. The board may review a proposed decision on its own motion by serving a notice of appeal on the parties within 30 days after issuance of the proposed decision.
- b. A proposed decision may be appealed to the board by either party by serving on the executive director, either in person or by certified mail, a notice of appeal within 30 days after service of the proposed decision on the appealing party.
- c. Following receipt of a notice of appeal, the board shall enter an order establishing a schedule for submission of briefs and oral argument. The parties shall serve their briefs on the board and shall furnish an additional copy to each party by first-class mail.
- d. Oral argument shall be heard by the board unless waived by both parties. The time granted each party for oral argument shall be established by the board.
- e. The record on appeal shall be the entire record made before the hearing panel or administrative law judge. Costs associated with the appeal shall be paid by the appealing party.

51.26(4) At no time prior to the release of the final decision by the board shall a proposed decision be made public or distributed to any person other than the parties.

51.26(5) Requests to present additional evidence. A party may request the taking of additional evidence only by establishing that:

- a. The evidence is material; and
- b. The evidence arose after completion of the original hearing; or
- c. Good cause exists for failure to present the evidence at the original hearing; and
- d. The party has not waived the right to present the additional evidence.

A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The board may remand a case to the hearing panel for further hearing or may itself preside at the taking of additional evidence.

650—51.27(17A) Applications for rehearing.

51.27(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

51.27(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the board decision on the existing record and whether, on the basis of the grounds enumerated in subrule 51.27(5), the applicant requests an opportunity to submit additional evidence.

51.27(3) *Time of filing.* The application shall be filed with the board within 20 days after issuance of the final decision.

51.27(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

51.27(5) *Additional evidence.* A request that additional evidence be considered on rehearing shall be governed by subrule 51.26(5).

51.27(6) *Disposition.* Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

650—51.28(17A) Stays of board actions.

51.28(1) *When available.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy.

51.28(2) *When granted.* In determining whether to grant a stay, the board shall consider the factors listed in 1998 Iowa Acts, chapter 1202, section 23(5c). The board shall not grant a stay in any case in which the district court would be expressly prohibited by statute from granting a stay.

650—51.29(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

650—51.30(17A) Emergency adjudicative proceedings.

51.30(1) To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with 1998 Iowa Acts, chapter 1202, section 21, to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order the board shall consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

51.30(2) Issuance of order.

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order shall be immediately delivered to the person who is required to comply with the order by utilizing one or more of the following procedures:

- (1) Personal delivery;
- (2) Certified mail, return receipt requested, to the last address on file with the board;
- (3) Certified mail to the last address on file with the board; or
- (4) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

51.30(3) Oral notice. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

51.30(4) Completion of proceedings. After the issuance of an emergency adjudicative order, the board shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing, unless the person who is required to comply with the order is the party requesting the continuance.

650—51.31(153) Judicial review. Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code section 153.33(4) "g" and "h."

650—51.32(17A) Notification of decision. All parties to a contested case shall be promptly furnished with a copy of any decision or order either by personal delivery or by certified or first-class mailing. Delivery or first-class mailing of any decision or order to an attorney of record in a contested case hearing shall constitute notification of the respondent. Service by mail is complete upon mailing.

650—51.33(17A) Publicizing disciplinary action.

51.33(1) Final decisions of the board relating to licensee discipline shall be transmitted to the appropriate state and national professional associations and news media, which may include a newspaper(s) of general circulation, and to other news media, person or organization upon request.

51.33(2) The board shall notify other boards of dentistry in states where the respondent is also licensed of disciplinary action taken against the Iowa licensee.

51.33(3) The board shall notify the American Association of Dental Examiners of disciplinary action taken against an Iowa licensee.

51.33(4) The board shall, in accordance with federal law, notify the National Practitioners Data Bank of disciplinary action taken against an Iowa licensee.

650—51.34(153) Reinstatement.

51.34(1) Any person whose license has been revoked or suspended by the board may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension.

51.34(2) If the order of revocation or suspension did not establish terms upon which reinstatement might occur, or if the license was voluntarily surrendered pursuant to disciplinary action, an initial application for reinstatement may not be made until one year has elapsed from the date of the final order.

51.34(3) All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of the license. All proceedings upon the petition for reinstatement shall be subject to the same rules of procedure as other disciplinary matters before the board.

51.34(4) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

51.34(5) An application for reinstatement may include a request for a hearing on the issues raised on the application or any other information furnished to the board. The hearing on an application for reinstatement shall be a contested case proceeding within the meaning of Iowa Code section 17A.2(2).

51.34(6) The order to grant or deny reinstatement shall include findings of fact and conclusions of law. If reinstatement is granted, terms and conditions of licensure may be imposed. Such terms and conditions may include restrictions on the licensee's practice. This order will be published as provided for in rule 51.33(153).

51.34(7) A person whose license to practice dentistry or dental hygiene was revoked or suspended must successfully complete the examination required at the time of reinstatement for dental or dental hygiene licensure. The board may in its discretion require remedial training in addition to or in lieu of the examination requirements.

650—51.35(272C) Disciplinary hearings—fees and costs.

51.35(1) Definitions. As used in this chapter in relation to a formal disciplinary action filed by the board against a licensee:

“Deposition” means the testimony of a person pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

“Expenses” means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

“Medical examination fees” means actual costs incurred by the board in a physical, mental, chemical abuse, or other impairment-related examination or evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

“Transcript” means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

“Witness fees” means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72 as the case may be.

51.35(2) The board may charge a fee not to exceed \$75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board. In addition to the fee, the board may recover from the licensee costs for the following procedures and personnel:

- a. Transcript.
- b. Witness fees and expenses.
- c. Depositions.
- d. Medical examination fees incurred relating to a person licensed under Iowa Code chapter 147.

51.35(3) Fees and costs assessed by the board pursuant to subrule 51.35(2) shall be calculated by the board's executive director and shall be entered as part of the board's final disciplinary order. The

board's final disciplinary order shall specify the time period in which the fees and costs shall be paid by the licensee.

51.35(4) Fees and costs collected by the board pursuant to subrule 51.35(2) shall be allocated to the expenditure category of the board in which the hearing costs were incurred. The fees and costs shall be considered repayment receipts as defined in Iowa Code section 8.2.

51.35(5) Failure of a licensee to pay the fees and costs assessed herein in the time specified in the board's final disciplinary order shall constitute a violation of a lawful order of the board.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code sections 272C.5 and 272C.6.

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